

TABLE OF CONTENTS

	<u>Page</u>
PURPOSE OF AGREEMENT	1
✓ ARTICLE I.	
Recognition	1
✓ ARTICLE II.	
Definitions	1
ARTICLE III.	
Management Rights	2
✓ ARTICLE IV.	
Rules and Regulations, Special Directives, and Administrative Orders	4
✓ ARTICLE V.	
City Protection For Fire Fighters	5
ARTICLE VI.	
Union Activity	6
Section 1. Union Activity on Department Property	6
Section 2. Negotiating Committee	6
Section 3. City Facilities	7
Section 4. Other Activities	7
Section 5. Bulletin Boards	7
Section 6. Radio, MDT, and Electronic Mail Announcements	8
✓ ARTICLE VII.	
Payroll Deductions	9
Section 1. Union Dues	9
Section 2. Special Assessments	9
Section 3. Indemnification	9
Section 4. Application	9
Section 5. Adminstrative Fees	9

ARTICLE VIII.
Special Assignment of Union President 10

ARTICLE IX.
Maintenance of Standards 11

✓ **ARTICLE X.**
No Strikes, No Lockouts 11

ARTICLE XI.
Non-Discrimination 11

ARTICLE XII.
Labor Management Relations 11

✓ **ARTICLE XIII. (SEC. 3 ONLY)**
Wages 12
Section 5. Longevity 14

ARTICLE XIV.
Overtime 15

ARTICLE XV.
Hours 16
Section 1. General 16
Section 2. Emergency Medical Technicians
(Regular), and Communications 16
Section 3. Specified Employees in the Fire
Department Repair Shops 17
Section 4. Fire Fighting 18
Section 5. Arson Employees 18
Section 6. Employees Assinged to Specialized Training 19
Section 7. Fire Prevention, Airport
Coordinator, and Other
Uniformed Employees 20
Section 8. Transfer From One Shift Schedule to Another 20

ARTICLE XVI.		
Working Out of Classification	.....	20
ARTICLE XVII.		
Vacations	.....	20
Section 4. Bonus Days Leave	.....	21
ARTICLE XVIII.		
Holidays	.....	22
ARTICLE XIX.		
Bereavement Leave	.....	22
ARTICLE XX.		
Clothing Allowance	.....	23
ARTICLE XXI.		
Parking	.....	23
ARTICLE XXII.		
Incentive Pay	.....	24
Section 1. Educational	.....	24
Section 2. Haz-Mat Incentive	.....	24
Section 3. E.M.T. Certification Pay	.....	24
Section 4. E.M.T. Training for Non-Certified Employees	.....	25
Section 5. Paramedic Certification Pay	.....	25
Section 6. Authorization By The Medical Director	.....	26
Section 7. Special Duty Pay	.....	27
Section 8. Arson Assignment Pay	.....	27
Section 9. Aviation Incentive	.....	27
Section 10. Technical Rescue Team Incentive	.....	28
Section 11. Training Instructors Incentive	.....	28
Section 12. Fire Inspectors Incentive	.....	28
Section 13. Language Skills Pay	.....	28
ARTICLE XXIII.		
Sick Leave	.....	28
Section 1. Definitions	.....	28

Section 2.	General Sick Leave Policy Provisions	29
Section 3.	Other provisions	31

? ARTICLE XXIV.		
	Volunteering for Sick or Injured Fire Fighters	32

✓ ARTICLE XXV.		
	Benefit Plans	33
	Section 1. Active Fire Fighters Health Benefits.	33
	Section 2. Retired Fire Fighters Health Benefits	33
	Section 8. Other Benefits	36

✓ ARTICLE XXVI. (sec - 5 ONLY)		
	Miscellaneous	37

✓ ARTICLE XXVII.		
	Employee Fitness	38
	Section 1. Purpose	38
	Section 2. Fitness Requirements for New Employees	38
	Section 3. Fitness Program for Existing Employees	38

✓ ARTICLE XXVIII.		
	Drugs and Alcohol	39
	Section 1. General	39
	Section 2. Investigation (Testing)	39
	Section 3. Non-Relinquishment of Rights	40

ARTICLE XIX.		
	Grievance Procedure	41
	Section 1. Scope of Procedure	41
	Section 2. Time Limits	42
	Section 3. Steps of Grievance Procedure	42
	Section 5. Witnesses and Expenses	45
	Section 6. Arbitrator's Authority--Contract Cases	45
	Section 7. Arbitrator's Authority--Non-Contract Cases	46

ARTICLE XXX.		
	Exhaustion of Remedies	47
	Section 1. Exhaustion	47

✓ **ARTICLE XXXI. (SECTION 8 ONLY)**

Promotions 48

- Section 1. **Definitions** 48
 - A. **Seniority** 48
 - B. **Eligibility** 48
 - C. **Seniority in Rank** 49
- Section 2. **Study Materials Committee** 49
- Section 3. **Promotion to Fire Apparatus Operator, Lieutenant, and Captain** 50
- Section 4. **Promotion to District Chief** 50
 - A. **Written Examination** 50
 - B. **Assessment Center Board** 50
 - C. **Eligibility List** 51
- Section 5. **Promotional Probation** 51
- Section 6. **Chief's Review of Promotability** 52
- Section 7. **Assessment Center Promotional Dispute Resolution Procedure** 52
- Section 8. **Appointment to Assistant Chief and Deputy Chief** 53

ARTICLE XXXII.
Fire Fighter Trainees and Fire Fighter Probation 55

ARTICLE XXXIII.
Limitations on Acts 55

✓ **ARTICLE XXXIV.**
Agreement Binding on Successors and Assigns on Both Parties, Regardless of Changes in Management, Consolidation, Merger, Transfer, Annexation, and Location 56

✓ **ARTICLE XXXV.**
Savings Clause 57

✓ **ARTICLE XXXVI.**
Declaration of the Full and Final Scope of Agreement 57

✓ **ARTICLE XXXVII.**
Duration of Agreement 57

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
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PURPOSE OF AGREEMENT

It is the intent and purpose of this Agreement, entered into by and between the City of San Antonio, Texas, hereinafter referred to as the "City" or "Employer" and Local 624 International Association of Fire Fighters hereinafter referred to as the "Union" or "Bargaining Agent", to achieve and maintain harmonious relations between the parties, to establish benefits, compensation and other terms and conditions of employment and to provide for the equitable and orderly adjustment of grievances which may arise during the term of this Agreement.

ARTICLE I.

RECOGNITION

The City recognizes the Union as the exclusive bargaining agent for all permanent paid employees of the City of San Antonio Fire Department, with the sole exception of the Chief of the Department. It is understood that this bargaining unit does not include civilian personnel, including Fire Fighter Trainees enrolled in the initial Fire Academy.

ARTICLE II.

DEFINITIONS

1. "Employer" means the City of San Antonio.
2. "City" means the City of San Antonio.
3. "Union" means the International Association of Fire Fighters Local 624.
4. "Bargaining Agent" means the International Association of Fire Firefighters Local 624.
5. "Agreement" means the Collective Bargaining Agreement negotiated by and between the Employer and the Union.
6. "Employee"
"Fire Fighter"
"Bargaining Unit Member" means any full time, permanent, paid employee who has been hired in substantial compliance with Chapter 143 of the Local Government Code.
7. "Civil Service Commission" means the Firefighter and Police Officer Civil Service Commission of the City of San Antonio.

8. **"Grievance"** is defined as a dispute or disagreement involving the interpretation, application or alleged violation of any provisions of this Agreement, and/or, of any state or federal statute, rule, or regulation dealing with the employer/employee relationship, except as otherwise provided for herein.
9. **"Probationary Period"** means the twelve (12) month period immediately following the initial date of employment in the Department (excluding time spent on leave in excess of 30 consecutive days) in accordance with Chapter 143 of the Local Government Code.
10. **"Regular Rate of Pay"** means an employee's salary plus longevity, incentive, educational, and/or assignment pay.
11. **"Chapter 143 of the Local Government Code"** means Vernon's Texas Code Annotated, Local Government Code, Title 5, Matters Affecting Public Officers and Employees, Chapter 143, Municipal Civil Service.
12. **"Base Pay"** means an employee's monthly salary as shown in Article XIII of this Agreement.
13. **"Employee's Anniversary Date"** shall mean the employee's date of employment (in the Academy) in the Department.
14. **"Gender"**. Reference to the male gender throughout this Agreement shall have equal force and include reference to the female gender.

ARTICLE III.

MANAGEMENT RIGHTS

Section 1. The Union recognizes the management of the City of San Antonio and the direction of the Fire Department are vested exclusively in the City, subject to the terms of this Agreement, and nothing in this Agreement is intended to circumscribe or modify the existing rights of the City. These rights include:

- A. Direct the work of its employees to include the scheduling of overtime work.
- B. Hire, promote, demote, transfer, assign, and retain employees in positions within the City, subject to Civil Service regulations and/or terms of this Agreement.
- C. Suspend or discharge employees for just cause, subject to Civil Service regulations and/or the terms of this Agreement.

- D. Maintain the efficiency of governmental operations.
- E. Relieve employees from duties due to lack of work, subject to Civil Service regulations and/or the terms of this Agreement.
- F. Utilize the Fire Department in emergency situations to protect life and property.
- G. Use civilians in the Fire Department to perform duties which do not require a sworn certified Fire Fighter. In this regard, the City is authorized to civilianize the following positions or units:

1. Fiscal Management
2. Personnel
3. Clerical
4. Emergency Management
5. Delivery
6. Fire Services/Vehicle Maintenance (with exception of one (1) existing Fire Captain position)
7. EMS Supply (until the employee holding the FAO position on 10/1/94 is transferred, promoted, terminates or retires, provided the City hires a civilian that has some medical background and/or holds a paramedic certification.)
8. Building Maintenance
9. Information Systems

Civilians performing duties which do not require a sworn certified Fire Fighter, and civilians performing duties civilianized pursuant to the position/unit list contained herein are not subject to the terms of this Agreement.

- H. Determine the methods, processes, means, and personnel by which operations are to be carried out.

THE UNION UNDERSTANDS AND AGREES THAT:

Section 2.

- A. Every duty connected with operations enumerated in job descriptions is not always specifically described; nevertheless, it is intended that all such duties relating to the present mission and concept of the Fire Department, as a public safety organization of the City, shall be performed by the employees.
- B. The City shall have exclusive authority to transfer any City operation now conducted by it to another unit of government, and such transfer shall not require any prior negotiations or the consent of any group, organization, union or labor organization whatsoever. However, the City does agree that prior to any such transfer they will meet and confer with the Union and that the Union may register any objections they have with the City Manager and City Council.
- C. Except as otherwise specifically provided in this Agreement, the City, acting through the City Manager and the Fire Chief, shall retain all rights and authority to which by law it is their responsibility to enforce.

ARTICLE IV.

RULES AND REGULATIONS, SPECIAL DIRECTIVES AND ADMINISTRATIVE ORDERS

Section 1. The Union recognizes the City's right to establish and enforce reasonable Rules and Regulations, Special Directives and Administrative Orders to conduct the mission of the Fire Department. Likewise, the City recognizes the responsibility of management to a consistent interpretation and application of such Rules and Regulations, Special Directives and Administrative Orders, which governs the conduct of employees on the job. The interpretation and application of rules and Regulations, Special Directives and Administrative Orders shall be subject to the Grievance and Arbitration procedure.

Section 2.

- A. The parties have established a joint committee which is undertaking the revision and redrafting of the Department's Rules and Regulations. This committee and its functions to redraft said Rules and Regulations shall be dissolved effective one (1) calendar year from the date of the signing of this Agreement. Once this committee has drafted the final Rules and Regulations, the Committee shall recommend the same to the Chief. These rules and regulations of the Department submitted by the Chief to

and approved by the Civil Service Commission shall supersede all Department Rules and Regulations. The violation of one of said rules and/or regulations by an employee of the Department shall constitute "cause" for disciplinary action.

- B. The City shall be obligated to provide each station and employee with a copy of the Rules and Regulations of the Department finally approved by the "Civil Service Commission". As Rules and Regulations, Special Directives, Temporary Orders, and/or Administrative Orders are promulgated and/or amended from time to time hereafter, said Rules and/or amendments shall be communicated to the employees at a briefing of employees by their superiors in rank and, thereafter, a copy of such new directive, rule, special order and/or regulations will be provided to the affected employee and to the Union. Acknowledgment of receipt shall be the burden of the superior officer who, when providing a copy of said amendment or rule to the employee shall obtain the employee's initials indicating that a copy has been provided.

Section 3. It is mutually agreed by the parties that the rules and regulations of the Department and/or amendments thereto that are hereinafter approved by the Civil Service Commission shall be made a part hereof and therefore are not subject to Maintenance of Standards as provided for elsewhere herein.

ARTICLE V.

CITY PROTECTION FOR FIRE FIGHTERS

Section 1. The City will defend in or out of court any Fire Fighter who incurs a charge or lawsuit as a result of the lawful performance of his duties pursuant to the provisions of City guidelines as adopted and approved under City Ordinance No. 62206 dated January 23, 1986, incorporated as Attachment "1".

Section 2. The City will seek to recover for damaged or lost property of any employee in any suit or claim that is asserted by the City as to its public property, pursuant to procedure established by the Chief and the City Attorney. It is our understanding the ordinance adopting the proposed contract will reference the HAZ-MAT ordinance. The purpose of this section is to enhance and broaden its range of coverage. The ordinance authorizing execution of this contract will amend the existing HAZ-MAT ordinance to authorize such action by the City Attorney.

ARTICLE VI.

UNION ACTIVITY

Section 1. Union Activity on Department Property.

Union members or officers shall not conduct Union business on City time except as specified by this Agreement or as further authorized by the City Manager or the Fire Chief.

The Union may hold meetings pertinent to Union business on Fire Department property, provided that permission for such meeting is obtained in advance from the Fire Chief or his designated representative.

Union officers and committee members may conduct Union business on City time at their work location as long as such business does not interfere with their Fire Department duties.

Notwithstanding the provisions hereof, political activity shall not be conducted by the Union or any of its members on City time and/or Fire Department property pursuant to this Section.

The determination by the Fire Chief that Union meetings on Fire Department property or the work of an individual Union member on City time as provided herein shall be binding unless or until it has been determined through the Grievance Procedure found in Article XXIX of this Agreement that the Chief has unreasonably exercised his authority granted pursuant to this Article. The Union will be allowed a scheduled four (4) hour orientation class with Fire Cadets within the first two (2) weeks of entering the Fire Academy. The Union shall submit an outline of their presentation to the Chief in advance.

Section 2. Negotiating Committee.

A maximum of three (3) members of the Union Negotiating Committee shall be granted time off with pay (excluding additional pay) for the purpose of attending negotiating meetings between the City and the Union when such meetings occur during the regularly scheduled working time of the employees. Time off shall only be for reasonable transportation time to and from the meeting site, direct route, and the actual time required in the meeting itself. An employee on such administrative leave shall be compensated as though the employee was at work on his regularly-scheduled assignment so that the employee will suffer no reduction in his normal, weekly pay for having participated in negotiations (and/or meetings directly relating thereto and actual travel time--direct route--to and from said meetings) at his regular rate of pay and applicable scheduled FLSA overtime.

Section 3. City Facilities.

Nothing in this Article is intended to prohibit or prevent the Union from utilizing City facilities, available to private organizations on a rental basis, under the same conditions that they are made available to other such private organizations.

Section 4. Other Activities.

Any Union Executive Board member will be granted time off with pay for the purpose of attending regularly scheduled Union meetings, when such meetings occur on the regularly scheduled work shift of said Executive Board members. An employee on such administrative leave shall be compensated as though the employee was at work on his regularly-scheduled assignment so that the employee will suffer no reduction in his normal, weekly pay for attendance at regularly-scheduled union meetings (including actual travel time--direct route--to and from said meetings) at his regular rate of pay and applicable scheduled FLSA overtime. In no event, however, shall the total number of occasions where time off is granted to said Executive Board members collectively exceed fifteen (15) occasions per year.

The Union shall also assure the emergency response capability of said Executive Board members in the event of an overriding emergency as declared by the Chief.

Nothing in this Article is intended to restrict or prohibit employees from attending meetings, conventions, conferences, seminars or other Union functions on the employee's own time away from Fire Department premises.

The City shall grant administrative leave up to a maximum of four hundred eighty (480) hours per fiscal year to those individuals selected by the Union for the purpose of attending seminars, workshops, and conventions at any given time upon the request of the Union President. The Union shall notify the Chief at least seven (7) calendar days in advance as to the dates and identity of individual members participating in such seminars, workshops, and conventions designated by the Union. A Fire Fighter on such administrative leave will be compensated at his regular rate of pay and is entitled to no additional compensation. The Fire Chief, when properly notified, shall grant said administrative leave, except in the instances of emergencies, or where the same would impair the operations of the Department, or where the granting of same would adversely affect the welfare of the citizens of San Antonio.

Section 5. Bulletin Boards.

The City shall allow the Union to use the Fire Department bulletin board at each location. These boards shall be used only for the following notices:

- b. Union Meetings.
- c. Union Elections.
- d. Reports of Union Committees.
- e. International Association of Fire Fighters and State Association Notices.
- f. Legislative enactments and judicial decisions affecting employees.
- g. Minutes of Union meetings which do not violate the provisions of the following paragraph.
- h. Shall not contain any personal caricatures.
- i. Union endorsements of political candidates shall be in accordance with the provisions of the following paragraph:

Notices of announcements, including reports of Union committees shall not contain anything reflecting upon the City, any of its employees, or any labor organizations among its employees. The notice of Union endorsement of political candidates shall consist of a simple, straight-forward listing of the candidates, without editorializing their merits and void of any remarks about their opponents.

The Union President or his designated representative shall be responsible for the contents of the above notices; any violation of the provisions of this article shall entitle the City to revoke this concession and such revocation is subject to the grievance procedure.

Section 6. Radio, MDT, and Electronic Mail Announcements.

The Union will be allowed use of these medias for the purposes of pertinent information, i.e., Union Meetings, Special Announcement, etc. All announcements shall first be approved by the Chief or his designee, which approval shall not be unreasonably withheld if the announcement complies with the provisions of Section 5 above.

Section 7. The City agrees to provide the Union President with the written copy of announcements intended for dissemination generally to department employees. Copies of such announcements shall be placed in a mail slot to be maintained for the Union President at the Department's Administrative Offices.

ARTICLE VII.

PAYROLL DEDUCTIONS

Section 1. Union Dues.

The City agrees that on each pay day, it shall deduct Union dues from each member of the Union in the amount certified to be current by the Financial Secretary of the Union and the Director of Finance. Dues shall be set in accordance with the Constitution and By-laws of the Union and shall be authorized by each member pursuant to state law. The President and Financial Secretary shall notify the Director of Finance in writing of any certified dues increase election. Within thirty (30) days following notification of approval, the City shall change dues deductions to the notified amount.

Section 2. Special Assessments.

With the sole exception of the Union's death benefit, the City shall deduct special assessments which are duly authorized pursuant to the Constitution and By-laws of the Union and are voluntary and individually authorized by the member. A single authorization shall be utilized for all deductions of the death benefit.

Section 3. Indemnification.

The City will be obligated to remit to the Union only those sums deducted as dues and assessments pursuant to this Section. The Union agrees to promptly refund to the City any amount paid to it in error upon presentation of satisfactory proof by the City. The Union agrees to indemnify, and hold the City harmless from any cause of action instituted by any individual as a result of the City's deduction of dues and special assessments.

Section 4. Application.

This Article shall apply only to payroll deductions authorized for the payment of dues and fees to Local Union No. 624, to the exclusion of any other organization or of deductions for any other purpose provided, however, that no present deduction will be changed or affected.

Section 5. Administrative Fees.

The City shall have the right to charge an administrative fee to recover the cost associated with the administration of any new special assessment(s) or deduction(s) implemented after the effective date of this Agreement requested by the Union. This shall not apply to existing Union dues and PAC contributions. It is also understood and agreed that an increase or decrease in Union dues and/or PAC contributions are not a change under this paragraph. The Director of Finance shall have the right to develop

such fee and amend it annually based on any change in the cost of administration. The City shall notify the Union of any change in the administrative charge at least thirty (30) calendar days prior to the implementation of the change. Such administrative charge shall be withheld from the amount collected and remitted to the Union. The fee shall include the actual cost to set up each deduction plus 15 percent, not to exceed \$300.00.

ARTICLE VIII.

SPECIAL ASSIGNMENT OF UNION PRESIDENT

The City agrees that the President of the Union will be placed on special assignment during the term of his presidency. The special assignment will give the Union President the latitude to deal with the duties of his presidency while retaining the privileges of his employment, while the Fire Chief retains the right to recall him to duty during an emergency or special event involving an overriding need for the protection of the citizens of San Antonio.

The Fire Chief reserves his existing authority to revoke special assignment for the Union President during emergencies or when the welfare of the citizens of San Antonio is placed in jeopardy. The Union President, as part of his Union duties, reserves the right, as in the past, to mitigate grievances at all informal and formal levels in order to reduce the number of complaints and, in all cases, reserves the right to speak, visit with the men and women who are members of the Union, as well as to tour existing fire facilities and to review existing equipment toward the goal of improving the quality of worklife for the Fire Fighters of the City of San Antonio whom he represents. In addition, he will participate as the duly-elected representative of men and women of the Union in any discussion that may affect the quality of worklife, health, and well-being of any Union member.

It is understood that the President of the Union shall suffer no loss of longevity, seniority, pension, days off, or any other benefits as a result of and during the term of such special assignment. Provided, however, the President shall be entitled to educational and/or certification pay, if applicable, but shall not be entitled to premium assignment or incentive pay (i.e., overtime) unless directed by the Chief to perform Fire Fighter duties that call for payment of said premium pay. When the term of the President expires, the President shall be eligible to return to his previously-assigned shift and duty assignment, provided any certificate that is required has been maintained.

ARTICLE IX.

MAINTENANCE OF STANDARDS

All standards, privileges and working conditions enjoyed by the City of San Antonio Fire Fighters at the effective date of this Agreement, which are not included in this Agreement shall remain unchanged for the duration of this Agreement.

ARTICLE X.

NO STRIKES, NO LOCKOUTS

The Union shall not cause, counsel, or permit its members to strike, slow down, disrupt, impede or otherwise impair the normal functions of the Department, nor to refuse to cross any picket line by whomever established, where such refusal would interfere with or impede the performance of the employee's duties as an employee of the City. The City shall not lock-out any employee.

ARTICLE XI.

NON-DISCRIMINATION

Section 1. Both the City and the Union agree that neither shall willfully discriminate against any employee, member, or prospective member, because of race, color, creed, national origin, sex, or age or handicap if otherwise qualified to fulfill the duties of the position.

Section 2. Alleged violations of Section 1, as well as claims of discrimination made under Federal and/or State law, shall not be subject to the grievance/arbitration procedures of this Agreement.

ARTICLE XII.

LABOR MANAGEMENT RELATIONS

The Chief of the Department and the President of the Union shall meet monthly (if requested by either) for the purpose of conferring over issues relating to labor relations, health and safety, and other such matters. They shall be authorized to jointly appoint necessary committees with specific goals and objectives of mutual benefit and concern. In addition to such other committees as they shall choose to establish, there shall be maintained a vehicle accident committee, joint occupational safety and health committee, and an equipment committee.

In addition to the establishment of committees, the Chief and the President shall be at liberty to discuss pending grievances and/or issues of mutual interest and/or concern, even where the same involves an individual claim or claims of one or more employees of the Department.

Any committees designated shall meet at times and places authorized by the Chief so as to cause the least possible interference with existing duties. Every reasonable effort will be made to schedule meetings at times agreeable to all members of the Committee. The work of said committees shall be conducted on City time without loss of pay by committee members; except that meetings which are scheduled at times when Union members who work shifts are not on duty, such employees shall attend on their own time.

ARTICLE XIII.

WAGES

Section 1. Employees in the following classifications shall receive the following monthly base salaries (representing a 3 percent increase) effective January 1, 1995:

CLASSIFICATION	MONTHLY SALARY
FIRE FIGHTER-- Beginning of probation through eighteenth month of employment	\$2,472.00
FIRE FIGHTER-- Beginning the nineteenth month of employment through 60th month	\$2,744.00
FIRE FIGHTER-- Beginning 61st month	\$2,796.00
FIRE APPARATUS OPERATOR-- Promotion through 60th month	\$3,007.00
FIRE APPARATUS OPERATOR-- Beginning 61st month	\$3,064.00
LIEUTENANT--	\$3,437.00
CAPTAIN--	\$3,930.00
DISTRICT CHIEF--	\$4,498.00
ASSISTANT CHIEF (Non-Appointed)--	\$5,155.00

Section 2. Employees in the following classifications shall receive the following monthly base salaries (representing a 3 percent increase) effective October 1, 1995:

CLASSIFICATION	MONTHLY SALARY
FIRE FIGHTER-- Beginning of probation through eighteenth month of employment	\$2,546.00
FIRE FIGHTER-- Beginning the nineteenth month of employment through 60th month	\$2,826.00
FIRE FIGHTER-- Beginning 61st month	\$2,880.00
FIRE APPARATUS OPERATOR-- Promotion through 60th month	\$3,097.00
FIRE APPARATUS OPERATOR-- Beginning 61st month	\$3,156.00
LIEUTENANT--	\$3,540.00
CAPTAIN--	\$4,048.00
DISTRICT CHIEF--	\$4,633.00
ASSISTANT CHIEF (Non-Appointed)--	\$5,310.00

Section 3. Employees in the following classifications shall receive the following monthly base salaries (representing a 4 percent increase) effective October 1, 1996:

CLASSIFICATION	MONTHLY SALARY
FIRE FIGHTER-- Beginning of probation through eighteenth month of employment	\$2,648.00
FIRE FIGHTER-- Beginning the nineteenth month of employment through 60th month	\$2,939.00
FIRE FIGHTER-- Beginning 61st month	\$2,995.00
FIRE APPARATUS OPERATOR-- Promotion through 60th month	\$3,221.00
FIRE APPARATUS OPERATOR-- Beginning 61st month	\$3,288.00

LIEUTENANT--	\$3,682.00
CAPTAIN--	\$4,210.00
DISTRICT CHIEF--	\$4,818.00
ASSISTANT CHIEF (Non-Appointed)--	\$5,522.00

Section 4. Employees in the following classification shall receive the following monthly base salaries (representing a 3 percent increase) effective October 1, 1997:

CLASSIFICATION	MONTHLY SALARY
FIRE FIGHTER-- Beginning of probation through eighteenth month of employment	\$2,727.00
FIRE FIGHTER-- Beginning the nineteenth month of employment through 60th month	\$3,027.00
FIRE FIGHTER-- Beginning 61st month	\$3,085.00
FIRE APPARATUS OPERATOR-- Promotion through 60th month	\$3,318.00
FIRE APPARATUS OPERATOR-- Beginning 61st month	\$3,381.00
LIEUTENANT--	\$3,793.00
CAPTAIN--	\$4,336.00
DISTRICT CHIEF--	\$4,963.00
ASSISTANT CHIEF (Non-Appointed)--	\$5,688.00

Section 5. Longevity.

In addition to wages as set forth in the pay schedule above, each Fire Fighter's base pay shall be increased by three percent (3%) for each five (5) years of his longevity, to a maximum of thirty (30) years, i.e., a thirty-year veteran would receive an additional payment not to exceed eighteen percent (18%). On each Fire Fighter's anniversary date which is not a multiple of five (5), he shall receive an eight dollar (\$8.00) increase in his longevity pay per month, and the eight dollar (\$8.00) interim monthly adjustments will not increase any fifth year levels. The eight dollar (\$8.00) payment as noted herein shall

be in lieu of the four dollar (\$4.00) per month per year of service payment called for in Chapter 141.032 Local Government Code.

ARTICLE XIV.

OVERTIME

Section 1. All employees shall be paid at the rate of time and one half (1-1/2) that of their regular rate of pay for all hours worked over their regular scheduled working hours.

Section 2. All employees who are called back to work when they are off duty shall be paid a minimum of two (2) hours at time and one-half (1-1/2) and shall be paid at the rate of time and one-half (1-1/2) for all hours worked over two (2) hours.

Section 3. All Fire Suppression employees who are assigned a fifty-six (56) hour work week schedule shall receive time and one-half (1-1/2) their regular rate of pay for all hours worked in excess of one hundred fifty nine (159) hours per twenty-one (21) day work cycle. Accordingly, for each additional hour, or portion thereof, actually worked by said employee in excess of one hundred fifty nine (159) during the twenty-one (21) day cycle, that employee shall receive overtime pay based on the following: 1.5 times the number of hours actually worked in excess of 159 hours times the quotient of 159, divided into the employee's three week gross regular salary.

Under a twenty-one (21) day cycle, each employee shall lose no more than twenty-seven (27) hours of overtime pay per year as a result of scheduled vacation leave being counted as productive time for F.L.S.A. purposes. For the purpose of computing eligibility for F.L.S.A. overtime and application of the twenty-seven (27) hour limit in this paragraph, all other types of leave will take priority over vacation leave in application of this provision (i.e. when vacation and any other form of leave is used in the same 21 day cycle, the loss of F.L.S.A. overtime shall not apply to the twenty-seven (27) hour maximum loss.) It is intended that a Firefighter will lose only one cycle of F.L.S.A. overtime per scheduled vacation, even if a vacation period splits two cycles. F.L.S.A. overtime will be charged against the first three (3) vacation periods taken in that calendar year. Employees shall, however, be allowed to exempt use of one shift of sick leave each calendar year from the provisions of this paragraph.

Beginning with the first F.L.S.A. cycle after the contract is signed, the twenty-one (21) day cycle shall begin at noon. "B" shift personnel shall suffer no loss of their F.L.S.A. overtime due to this change.

Section 4. When two or more types of overtime or premium compensation are applicable to the same hours of work, only the higher rate(s) of compensation shall be paid. In no event shall overtime or premium compensation be pyramided.

ARTICLE XV.

HOURS

Section 1. General.

The following shall be the regular established work schedule for the employees covered by this Agreement and shall remain in effect, except that the Chief may make no more than one change per section per contract, and then only after sixty (60) days notification in writing to the Union unless exemption to notification is provided herein. Any additional changes must be made by mutual consent between the City and the Union. During a sixty (60) day notification period, the Union shall be given the opportunity to meet and confer with the Chief and register any objection it may have to the change of hours.

Section 2. Emergency Medical Technicians (Regular) and Communications.

Emergency Medical Technicians and Emergency Medical Service Communications Division personnel shall work the following regular hours.

- A. An average 42 hours work week.
- B. The work period is four (4) consecutive weeks or twenty-eight (28) days beginning at 7:00 a.m. Sunday and ending twenty-eight (28) days later. The work shift shall begin at 7:00 a.m. and end at 7:00 a.m. the following day, consisting of twenty-four (24) consecutive hours.

42 Hour Work Week - Schedule for One Employee

S	M	T	W	T	F	S
17	7	OFF	OFF	17	7	OFF
OFF	17	7	OFF	OFF	17	7
OFF	OFF	17	7	OFF	OFF	17
7	OFF	OFF	17	7	OFF	OFF

One (1) work shift shall equal two (2) twelve (12) hour working days for administrative purposes (sick leave, annual leave, disciplinary action, military leave, etc.)

Personnel may not work more than twenty-four (24) continuous hours, except if personnel are on a response at shift change. Personnel must have

twenty-four hours off prior to working. This applies to overtime and trading time.

Vacation scheduling must be equalized throughout the year.

C. The Chief shall have the right to schedule a separate group of employees on a power shift schedule provided that the schedule does not exceed an average forty-two (42) hour work week. No individual power shift work shift shall exceed twelve (12) hours. No more than four (4) power shift work shifts will be scheduled in any seven (7) calendar day week period. The Chief's right to implement such a shift shall be limited to or by the following conditions:

1. The Fire Chief and the Union shall negotiate on the specific shift schedule to be implemented and the impact of such a schedule. In the event the Fire Chief and the Union do not reach a full agreement on the schedule, the unresolved issues shall be submitted to a binding arbitration procedure as provided in the statutory provision of Sections 174.154, 174.155, and 174.157 through 174.164 (Texas Local Government Code) as such sections exist at the date of this contract. No other provisions in said Chapter shall be applicable to the partial re-opener provided for in this Article;
2. Additional EMS units must be placed into service by the City beyond twenty-three (23) units prior to establishing a permanent power shift schedule pursuant to this section; and
3. All slots must represent new positions, and shall be filled from volunteers, or from promotions.

Each paramedic actually working a power shift schedule pursuant to this section and on a straight time basis for one-half (1/2) or more of any calendar month shall be entitled to shift differential pay in the amount of \$350 for the full month. No partial payment shall be made for working less than one-half (1/2) of the calendar month. Time taken by an employee on Sick Leave or LOD Leave while assigned to a power shift work schedule shall not be counted as time working for the purpose of eligibility to receive shift differential pay.

Nothing in this section shall preclude the Fire Chief from establishing or continuing any power shift or peak period staffing schedule on an overtime basis.

Section 3. Specified Employees in the Fire Department Repair Shops.

For employees assigned to the Fire Department Repair Shops, the work day shall begin at 7:45 a.m. and end at 4:30 p.m. each work day, Monday through Friday, with

forty-five (45) minutes for lunch, and two (2) 15 minute breaks, (1) in the morning and one (1) in the afternoon.

Section 4. Fire Fighting.

Employees assigned to the Fire Fighting Division or Aviation Division, shall work the following regular hours:

An average fifty-six (56) hour work week. The work period is three (3) consecutive weeks or twenty-one (21) days beginning at 12:00 noon Sunday and ending twenty-one (21) days later. The work shift shall begin at 12:00 noon and end at 12:00 noon the following day, consisting of twenty-four (24) consecutive hours. One (1) work shift shall equal two (2) working days.

56 Hour Work Week - Schedule for One Employee

S	M	T	W	T	F	S
12	12	OFF	12	12	OFF	12
12	OFF	12	12	OFF	12	12
OFF	12	12	OFF	12	12	OFF

Section 5. Arson Employees.

Employees assigned to the Arson Division shall work the following regular hours, with the exception of the Captain and Lieutenant assigned to Arson who shall work a forty (40) hour, five (5) day work week:

A. A forty (40)-hour, ten (10)-hour-per-day, four (4) day work week; except during the night shift which is a forty (40) hour eight (8) hour per day, five (5) day work week.

B. Said work week shall consist of three (3) shifts consisting of the day shift, evening shift, and night shift. The shifts are broken down as follows:

Day shift 7 a.m. - 5 p.m. for 6 weeks total / 3 weeks Mon.-Thurs.
/ 3 weeks Tues.-Fri.

Evening shift 10 a.m. - 8 p.m. for 4 weeks total / 2 weeks Wed.-Sat.
/ 2 weeks Sun.-Wed.

Night shift 8 p.m. - 4 a.m. for 2 weeks total / 2 weeks Mon.-Fri.

- C. Each employee shall work each shift for the specified number of weeks and then rotate to the next shift for a total of twelve (12) weeks. At the end of the 12th week the schedule repeats.
- D. Employees assigned to Arson shall be allowed a thirty (30) minute lunch break. While on this lunch break, the employee shall be subject to call, and the missing of this lunch break because of the press of business shall not be grounds for overtime payment nor shall it be the basis for a grievance.
- E. In the event an arson investigator is required when none is scheduled or when the scheduled personnel are not available to respond, he shall be called back to work on a rotating basis and compensated as specified by this Agreement.
- F. The schedule provided herein may be changed or modified, provided the Chief and a majority of the employees assigned to Arson agree to the same. Such change shall not constitute the one (1) change permitted to be made by the Chief pursuant to Section 1 of this Article.

Section 6. Employees Assigned to Specialized Training.

- A. Employees assigned or detailed to Emergency Medical Training shall have their hours scheduled at the discretion of the Emergency Medical Service Director as long as the scheduled hours do not exceed a forty (40) hour work week over the duration of the training period. The Emergency Medical director may implement any schedule, provided that it is in accordance with and permitted by the provisions of the Fair Labor Standards Act, and any regulations thereunder.
- B. Employees assigned or detailed to specialized training, i.e., HazMat, National Fire Academy, E.M.T., etc., shall not lose any of their standard rate of pay, i.e., F.L.S.A. overtime, as per their regular assignment. Total hours worked may not exceed current F.L.S.A. cycle average and such employee's schedule will be adjusted to compensate for reasonable travel (most direct route and most expedient mode) and class time required while on specialized training.
- C. Employees assigned or detailed to Paramedic Training are considered part of the E.M.S. Division and are covered by F.L.S.A. guidelines relative to a forty (40) hour work week.

Section 7. Fire Prevention, Airport Coordinator, and Other Uniformed Employees.

Fire Prevention and All other uniformed employees not specifically mentioned before shall work the following hours: A forty (40) hour work week, Monday through Friday, beginning at 7:45 a.m. and ending at 4:30 p.m. each day, with forty-five (45) minutes for lunch and two (2) fifteen (15) minute breaks, one (1) in the morning and one (1) in the afternoon.

Section 8. Transfer from One Shift Schedule to Another.

An employee who is transferred and, as a result, changes from one shift assignment to another (e.g., twenty-four (24) hour shift to eight (8) hour shift) shall have a minimum of eighteen (18) hours off from the time he completes his last shift on his original schedule until the time he must report for duty on the new schedule to which he is assigned. No overtime shall accrue to any individual transferred in conformance with this section.

Section 9. The provisions of this Article can be changed by mutual agreement between the City and the Union.

ARTICLE XVI.

WORKING OUT OF CLASSIFICATION

An employee who works in a higher classification shall be paid at the higher classification rate of pay for actual time worked in that classification.

ARTICLE XVII.

VACATIONS

Section 1. The following is a vacation accrual schedule which shall be implemented for employees covered by this Agreement: Effective January 1, 1990, employees will have accrued vacation days according to the following schedule, minus any vacation days previously borrowed.

Beginning of Probation through 14 years of completed Service	-	15 days.
Beginning 15th year through 19th year of completed Service	-	18 days.
Beginning 20th year of Service	-	20 days.

Section 2. Except as provided in Section 3 below, an employee may request from his accrued vacation leave, up to three (3) shifts. This leave is to be taken from his

scheduled vacation. An employee must apply in writing no less than five (5) calendar days, prior to the shift being taken. Selection will be made on a first-come, first-served basis, by log date and time entry (in 450's office for those assigned to Fire Suppression and 800's office for EMS). There will be a maximum of the three (3) employees allowed off per shift (two (2) in Fire Suppression and one in EMS), with the exception of holidays or the day before or after a holiday. If a person requests annual leave and is denied and the employee calls in sick for that shift, he must provide a physician's certificate signed by a physician upon his return to duty.

Section 3. Any employee who achieves perfect attendance over a 6 month period shall be entitled to utilize two (2) additional shifts of accrued vacation leave outside of scheduled vacation periods plus may convert one shift of sick leave for use as a floating vacation shift in accordance with the provisions of this section, hereinafter to be called "perfect attendance leave". Perfect Attendance Leave shall be used during the subsequent six (6) months. The Chief shall provide a minimum of three slots in Fire Suppression, 2 slots in EMS, and 1 slot in each other division which shall be available solely for perfect attendance leave. To utilize a slot, the employee shall provide a minimum of 15 days notification of the request. In the event more employees request use of leave than there are slots available, the slots shall be allocated in order of seniority in the department.

If the slots are not taken on or prior to the 15th day, based upon seniority, they shall be available on a first comes first entitled basis, provided that written notice shall be turned in to the proper authority, as designated by the Chief, prior to the beginning of the shift (or the work day, for 40 hour employees) prior to the one being requested.

"Perfect attendance" shall mean that the employee has not utilized any sick leave, emergency leave (provided that use of bereavement leave, although taken on an emergency leave basis, shall not be a disqualification under this section), line of duty leave (provided that use of LOD leave for a portion of a shift, as to those employees that return to work on the following shift, shall not be a disqualification under this section), leave without pay, and suspensions. For purposes of this section, 6 months shall be defined as consecutive calendar months, beginning the first shift hour in January, and the first shift hour in July.

Section 4. Bonus Days Leave.

Effective January 1, 1996, each employee shall be entitled to two (2) additional leave days for each six months of "perfect attendance". Employees not working for one of the following reasons are not eligible to receive the two (2) days perfect attendance bonus: sick leave, LOD (provided that the use of LOD leave for a portion of a shift, as to those employees that return to work in the following shift, shall not be a disqualification under this section), emergency leave, military leave in excess of fifteen (15) days in a calendar year, leave without pay, and suspensions.

The types of leave that will not adversely affect the employee's entitlement to the perfect attendance bonus are: LOD (provided that the use of LOD leave for a portion of a shift, as to those employees that return to work on the following shift), properly scheduled and authorized vacation days, holidays, compensatory time, bereavement leave (including leave granted for step-parents), administrative leave, and time restored by the commissioner or an arbitrator (hearing examiner).

Bonus day leave shall be taken at the employee's choice of either pay or FVS. If the employee elects to receive pay in lieu of time, the City shall pay the employee his amount at the same time each year as the City pays other City employees their sick leave buy back, but no later than Christmas Eve day.

All twenty-four (24) hour shift employees may accumulate no more than 480 hours of perfect attendance bonus day time. All other employees may accumulate no more than 320 hours of perfect attendance bonus day time. Any transferred employees shall be converted to the correct number of days.

ARTICLE XVIII.

HOLIDAYS

All employees covered by this Agreement shall be granted twelve (12) legal holidays. All holidays shall be accrued and taken in accordance with departmental policy.

ARTICLE XIX.

BEREAVEMENT LEAVE

Section 1. In the event of death in the immediate family of an employee who is otherwise assigned to duty, the employee shall be granted time off with pay as follows:

- A. Employees working Fire Suppression, Communications and EMS employees working forty-two (42) hour work week shall be granted two (2) consecutive shifts off following the death.
- B. Other employees shall be granted three (3) consecutive working days off following the death.

The immediate family shall be defined as the employee's mother, father, legal spouse, child, brother, sister, grandmother, grandfather, mother-in-law, and father-in-law, grandchildren, or other members of the immediate household. In the event of the death of a step-parent, the employee will be allowed to take an equivalent amount to that

specified above from his/her accrued, unused annual leave or holiday leave on an emergency leave basis.

Section 2. In the event an employee is on military leave during the occurrence of a death in the immediate family and, as a result, is required by the military to make up the time taken off from military leave, he shall be entitled to bereavement leave as provided in this Article.

Section 3. The Chief shall have discretion in cases that are found to be fraudulent requests or use of bereavement leave to deny any employee such bereavement leave provided, however, that such denial shall be subject to the grievance and arbitration procedures of this Agreement.

ARTICLE XX.

CLOTHING ALLOWANCE

Section 1. Each employee shall receive a clothing allowance of \$600.00 per year, payable quarterly at \$150.00 per payment on or before December 31, March 31, June 30, and September 30 of each fiscal year.

Section 2. As a substitution for the initial clothing allowance allocation of \$600 to which an employee would otherwise be entitled for his or her first full year after date of hire, each new employee shall be issued the heavy fire fighting pants, heavy fire fighting coat, boots, and suspenders. These items shall remain the property of the Fire Department until the employee has graduated from the Fire Academy, at which time ownership will be transferred to the employee.

Section 3. The City and the Union shall establish a joint committee to study the establishment of a commissary system in lieu of clothing allowance for the provision of uniforms and protective clothing. This committee shall complete its function during this contract.

ARTICLE XXI.

PARKING

The City shall provide, without cost to the employees assigned to Fire Station Number 1, Fire Department Administration Building, Communications, and Arson, adequate parking space adjacent to or near those work locations.

ARTICLE XXII.

INCENTIVE PAY

Section 1. Educational.

Fire Fighters holding certain college degrees shall receive educational incentive pay. The degrees shall be from an accredited learning institution and shall have some relevance to the job performance of the employment. The Chief shall determine the appropriateness of the degree and such determination shall be final.

- A. Those Fire Fighters holding an Associate's Degree shall receive one hundred fifty dollars (\$150.00) per month.
- B. Those Fire Fighters holding a Bachelor's Degree shall receive two hundred fifty dollars (\$250.00) per month.

Employees receiving degrees after October 1 of each year shall not be eligible for the educational incentive payments until the beginning of the following fiscal year. Payments called for hereunder shall be made in accordance with current payroll policies of the City.

Section 2. HAZ-MAT Incentive.

Personnel assigned to the Hazardous Material (Haz-Mat Team) shall receive a \$100.00 per month incentive during their active assignment.

Section 3. E.M.T. Certification Pay.

- A. Employees holding a Basic E.M.T. certificate obtained from the State and as a result of having completed a City-approved course of instruction shall receive a \$50.00 per month incentive for as long as certification is maintained.
- B. Effective October 1, 1996, Employees holding a Basic E.M.T. certificate obtained from the State and as a result of having completed a City-approved course of instruction shall receive the following incentive payments based upon years of service as a Basic E.M.T. (EMT-B) with the City for as long as certification is maintained and the employee is authorized to perform by the Medical Director:

Beginning of certification through 4 years of service
as a Basic E.M.T. \$ 50.00 per month

Beginning of 5th year through 8th year of service as a Basic E.M.T.	\$100.00 per month
Beginning of 9th year of service as a Basic E.M.T.	\$150.00 per month

Should a paramedic transfer out of paramedic duties in EMS, Communications or Aviation to function as a Basic E.M.T., and if that paramedic has continuously maintained his or her certification as a paramedic or obtains a Basic E.M.T. certification, then all prior service as a paramedic in EMS, Communications, or Aviation shall be counted toward determining the level of incentive to which he or she would be entitled.

Section 4. E.M.T. Training for Non-Certified Employees.

The City shall train sixty (60) employees in E.M.T. certification whose initial employment date was prior to 1/1/79, or who do not currently possess an E.M.T. certification. Training will be offered in order of seniority and will be paid for by the City. The Chief shall have the right to adjust work schedules of employees receiving training in order to best accomplish this mission.

Section 5. Paramedic Certification Pay.

All employees who are certified by the State and as a result of having completed a City-approved course of instruction as Paramedics and who actually work in EMS, Communications, and/or Aviation, and maintain authorization by the medical director shall receive the following incentive payments based upon years of service as a Paramedic with the City:

Beginning of assignment through 4 years of service as a Paramedic	\$150.00 per month
Beginning 5th year through 8th year of service as a Paramedic	\$200.00 per month
Beginning 9th year of service as a Paramedic	\$250.00 per month

These amounts shall be paid to the Paramedic for so long as the individual is employed by the Department and actually works as a Paramedic in EMS, Communications, and/or Aviation. (The use of administrative leave shall not be cause to deny incentive pay under the previous sentence. However, a Paramedic who has expended all available sick leave and is thus either eligible for or actually utilizing the provisions of Article XXIV, "Volunteering for Injured Firefighters" would no longer be entitled to receive incentive pay.) Should a Paramedic transfer or be assigned to a position outside of EMS, Communications, and/or Aviation and yet maintains his

Paramedic certification, he shall be entitled to E.M.T. certification pay but not Paramedic certification pay. Should a Fire Fighter receive training on his own time and at his own expense at a City- approved school, he shall be eligible for E.M.T. certification pay. A Paramedic voluntarily leaving EMS, Communications, and/or Aviation shall forfeit all accumulated service as Paramedic for purposes of determining the amount of the incentive differential. Should his leaving EMS, Communications, or Aviation be through no action of his own and he later returns to EMS, Communications, and/or Aviation and has continuously maintained his certification as a Paramedic, then all prior service as a Paramedic in EMS, Communications, or Aviation shall be counted toward determining the level of incentive to which he would be entitled.

Each E.M.T. or Paramedic assigned to EMS, Communications, or Aviation working an applicable shift for one-half (1/2) or more of any calendar month shall be entitled to the incentive pay as previously provided for that assignment for the full month. No partial payment shall be made for working less than one-half (1/2) of the calendar month.

Section 6. Authorization By The Medical Director.

The parties agree that any EMT or paramedic de-authorized by the medical director shall have:

- A. The right to receive designated tutorial assistance, as designated by the medical director, on City time and expense; and
- B. Sixty (60) days after the training or tutorial assistance course is first available to attain re-authorization.

If re-authorization is not obtained in accordance with these provisions, such member shall no longer be entitled to EMT or paramedic incentive pay, respectively. Any paramedic transferred to fire suppression as a result of de-authorization shall lose years of service credits for the years of paramedic service, for the purpose of computing EMT incentive pay.

A paramedic detailed to communications, who is not re-authorized after the sixty (60) day period provided for in this provision, shall be paid reduced incentive pay as follows:

up to 4 years	\$75.00
5 to 8 years	\$100.00
9 or more	\$125.00

or shall be entitled to EMT pay, enhanced by seniority, whichever is greater.

- A. The Fire Chief may assign personnel to special tasks or duties, i.e., computer analyst, video specialists, etc., and when doing so will agree to compensate them at the next-higher rank than the rank they occupy for the duration of the assignment. This special duty does not create a position but, if said duty lasts more than one (1) calendar year beginning no earlier than the signing of this Agreement, the position from which he received the special duty will create an additional position in the same classification.
- B. The Fire Chief may assign an employee as airport coordinator; and, when doing so, will compensate him at the rate of the next higher rank above that held by that employee so designated for the duration of the designation.

This Section of the Agreement may not be used to eliminate classified positions (ranks).

Section 8. Arson Assignment Pay.

- A. All qualified employees assigned to the Arson Division shall receive three hundred fifty dollars (\$350.00) per month assignment pay during each month of actual assignment.
- B. Each certified arson investigator assigned to Arson working an applicable assignment for one-half (1/2) or more of any calendar month shall be entitled to assignment pay for that assignment for the full month. No partial payment shall be made for working less than one-half (1/2) of the calendar month.
- C. The City will budget for, pay for, and arrange first available schooling for certification.

Section 9. Aviation Incentive.

- A. Effective October 1, 1996, each certified crash rescue Fire Fighter assigned to the Aviation Division or in support of operations at Stinson Municipal Airport shall receive a \$100.00 per month incentive during his or her active assignment.
- B. The City will budget for, pay for, and arrange first available schooling for certification.

Section 10. Technical Rescue Team Incentive.

Effective October 1, 1996, each Fire Fighter assigned to the Technical Rescue Team determined to be qualified by the Fire Chief shall receive a \$100 per month incentive during his or her active assignment.

Section 11. Training Instructors Incentive.

A. Effective October 1, 1996, each employee assigned to the Training Division who holds an Instructors certificate shall be entitled to receive \$100 per month incentive during his or her active assignment to Training.

B. The City will budget for, pay for, and arrange first available schooling for certification.

Section 12. Fire Inspectors Incentive.

A. Effective October 1, 1996, each employee assigned to the Fire Prevention Division who holds an Inspectors certificate shall be entitled to receive \$100 per month incentive during his or her active assignment to the Fire Prevention Division.

B. The City will budget for, pay for, and arrange first available schooling for certification.

Section 13. Language Skills Pay.

Effective October 1, 1996, employees shall be entitled to Language Skills Pay upon satisfactory completion of the testing requirements for proficiency as set forth in Administrative Directive 4.38. The amount shall not be less than the amount payable to other City employees.

ARTICLE XXIII.

SICK LEAVE

Section 1. Definitions.

A. For purposes of this Article, the following definitions shall be used:

1. "undocumented absence" shall mean any absence due to sick leave without a physician's certificate, regardless of duration during any working day. When counting such absences, all or part of each working day or shift shall count as a separate absence.

2. "physician's certificate" shall mean a note provided by a physician licensed to practice medicine in the State of Texas which states that he or she has examined the employee and that the employee was unable to work due to illness. A physician's certificate must have been issued within 24 hours of the date on which the obligation arises. It is the parties intent that the purpose of the information to be provided by the physician's certificate is to document the physician's determination that the employee has a bona fide illness, injury, or disability, which has existed for the entire period of the leave being claimed. Upon request by the Chief, the employee shall provide additional doctor's certification describing the nature of the illness which certification shall be mailed or delivered in a sealed envelope marked "confidential" to the Chief. The City shall not release any information concerning any condition or diagnosis, or any associated medical information or test result that is non-discloseable or confidential under state or federal law which may be contained on the physician's certificate to any person or entity without the written consent of the employee, or an order by a court of competent jurisdiction. If the employee seeks confidential treatment of any matter disclosed by the physician, these certificates shall be delivered or mailed, in a sealed envelope, marked "Medical Information - Confidential" directly to the appropriate office at Fire Administration. No employee or physician shall be expected to provide any information about conditions which are privileged or confidential by law, or which involve a clearly unwarranted invasion of personal privacy. This would include, but is not limited to STD'S or HIV. If a diagnosis or treatment relates to such conditions, the physician may complete this form with a conclusion that the patient's condition prevented work during the specified time period.

3. "physician licensed..." shall mean and include medical doctors (M.D.), osteopaths (D.O.) chiropractors (D.C.) and dentists (D.D.S.) who have met applicable licensing requirements, as the context of the condition or illness requires.

4. "voluntary overtime" shall mean overtime which is neither holdover time nor when an employee is ordered to work overtime.

Section 2. General Sick Leave Policy Provisions.

A. All employees shall be required to submit a physician's certificate under the following circumstances:

1. All twenty-four (24) hour shift employees using more than two (2) consecutive working days of sick leave shall be required to provide a

physician's certificate. All other employees using more than three (3) consecutive working days of sick leave shall be required to provide a physician's certificate.

2. All employees who use sick leave by leaving during a shift and returning during that shift or by reporting for duty after the shift begins shall be required to provide a physician's certificate.
3. All employees who utilize sick leave in conjunction with his/her scheduled work day or work shift immediately preceding or following any other form of leave, excluding Bereavement Leave, (i.e. annual leave, military leave, administrative leave, leave without pay) shall be required to provide a physician's certificate. Undocumented sick leave and military leave may not be taken together during the same shift.
4. All employees who utilize sick leave on the following holidays shall be required to provide a physician's certificate: New Year's Day, Independence Day, Thanksgiving Day, Christmas Eve, Christmas Day, New Year's Eve.
5. Once an employee has had six (6) undocumented absences in a fiscal year, he/she is required to provide a physician's certificate for any absence thereafter for the remainder of the year unless the employee has sick leave accrued but unused in an amount equal to or exceeding 50% of the total amount of sick leave he/she has accrued during his/her service in the Fire Department.

B. If an employee is not successful in obtaining a physician's certificate issued within 24 hours from the time the obligation arises, the employee may elect to be treated under either of the following provisions. The election shall be made upon return to work, at the time the physician's certificate is provided:

1. In the event that the physician's certificate is not issued within 24 hours, as provided herein, each duty hour after the obligation arises -- until the time of issuance, shall be forfeited from either accumulated vacation time, or holiday leave equal to the number of hours. Failure to provide such documentation shall not be cause for discipline, other than loss of paid leave, unless it be shown that intentional misrepresentation has occurred. It is understood and agreed to that annual or holiday leave that is forfeited under this section may not be used as, or in lieu of, scheduled leave. Any employee who intentionally calls in sick for the purpose of taking unscheduled leave is in violation of this provision.

2. If an employee attempts to see a physician within 24 hours, and is unable to do so, he or she may provide documentation from a licensed medical service provider to that effect to obtain approved leave. In the event of a subsequent sick leave request during the same fiscal year that is not accompanied by a physician's certificate issued within 24 hours, the employee shall lose sick leave credit for both of the absences, which shall not qualify as sick leave, but shall be forfeited from either accumulated vacation time, or holiday leave equal to the number of hours which the employee was absent. If the period of absence exceeds one shift or one day, the leave forfeited shall be twice the shorter period of time. Failure to provide such documentation shall not be cause for discipline, other than loss of paid leave, unless it be shown that intentional misrepresentation has occurred.

C. The following additional provisions shall apply:

1. After two undocumented absences during any fiscal year, an employee will be ineligible for his/her next opportunity for voluntary overtime. For each undocumented absence thereafter, the employee shall lose another overtime opportunity.
 2. After six (6) absences during the fiscal year, the Fire Chief has the right to deny eligibility for voluntary overtime for sixty (60) days, on a reasonable basis. Written guidelines for implementing this provision shall be established and disseminated within the department. The Fire Chief may revise these guidelines from time to time.
- D. After an employee who is eligible for regular retirement has an absence in excess of thirty (30) consecutive working days, the Chief has the right to require a physician's certificate and may require the employee to submit to a Fitness for Duty Examination.

Section 3. Other provisions.

- A. The Union recognizes the City's existing right to contact or attempt to contact an employee either in person or by telephone in a reasonable manner while he/she is on sick leave. Failure of the employee to be at his/her residence, at a location pre-coordinated with his/her supervisor, or attending medical treatment shall be grounds for disciplinary action in accordance with existing rules and regulations. The Chief will establish a procedure for discretionary exemptions from this rule and the provisions of Section 2 for individuals with long term illnesses, injuries or extended hospitalization.

- B. The Union recognizes the City's existing right to enforce a policy that the provision of fraudulent medical documentation or deliberately erroneous statements in connection with the provisions of this article shall be grounds for disciplinary action in accordance with the rules and regulations.
- C. Nothing in this article shall be construed to limit in any fashion the right of the Chief to enforce rules and regulations or administrative policies that are not in conflict with this Agreement or State Law.

ARTICLE XXIV.

VOLUNTEERING FOR SICK OR INJURED FIRE FIGHTERS

In the event a Fire Fighter is suffering from an illness or injury which has been diagnosed by a physician as temporary and such diagnosis is provided the City in writing, and in the event the said Fire Fighter has used all of his sick leave, vacation, and all other leaves, shall be entitled to the benefits outlined below for a period not to exceed three hundred sixty five (365) calendar days for the same or related illness or injury.

1. The City shall draft twelve (12) hours sick leave per participant who graduates from the academy after October 1, 1992. The 12 hours will be deducted after the employee completes his/her probation. Any Fire Fighter who desires not to participate must contact the City in writing prior to the completion of his or her probationary period.
2. Fire Fighters shall be eligible for the plan by submitting their name to a Committee of three appointed by the executive Committee of Local 624.
3. No Fire Fighter judged totally and permanently disabled by a physician shall be entitled to utilize this plan to extend the time of his retirement.
4. The Committee may donate sick leave drafted from each participant in equal amounts up to three (3) employees. If more than three (3) employees are using this work bank, then the Chief will require the Union to provide qualified Fire Fighters to actually perform the work to be assigned.
5. The Committee of Three shall designate members to work and the schedule they are to work from the list of volunteers.
6. All positions shall be filled in accordance with the rules and regulations of the Fire Department and all volunteers shall be fully qualified to perform the work to which assigned.

7. Guidelines and procedures for scheduling of this work shall be submitted by the Executive Board of Local 624 and approved by the Chief.
8. Only the Committee of Three may excuse a Fire Fighter from his obligation to work. Any unexcused absence will result in the loss of the privilege of this plan to the Fire Fighter who was scheduled to work and did not show.
9. The failure of any Fire Fighter to report when scheduled to work shall result in the sick or injured Fire Fighter being placed on leave, or leave without pay.

ARTICLE XXV.

BENEFIT PLANS

Section 1. Active Fire Fighters Health Benefits.

The City shall provide all active Fire Fighters who are eligible with family medical benefits and shall pay the full cost of said benefits. The minimum benefits provided are those as provided in the Master Contract Document for the City of San Antonio Employees Health Benefit Program dated May 1, 1995 and will be effective January 1, 1996.

Provisions and benefits specified in the Master Contract Document shall not be reduced during the life of this Agreement; however, the City reserves the right to change carriers or plan administrators at its discretion. While the City is prohibited from reducing the provisions and benefits specified in the Master Contract Document during the life of this Agreement, a determination of what medical service is medically necessary for a particular patient, or that a particular charge is in excess of the reasonable and customary charge for that medical service, will not be construed as a reduction in benefits, provided that the determination is made in accordance with the procedure and criteria described in the Master Contract Document.

Section 2. Retired Fire Fighters Health Benefits.

- A. The City shall also provide all retired Fire Fighters who are eligible with medical benefits which shall be supplemental to Medicare benefits, once Medicare eligibility begins. A "retired" Fire Fighter is one who is a member of the bargaining unit, who retired on or after the date of City Council approval of this Agreement. The minimum benefits provided prior to Medicare eligibility are those provided in the Master Contract Document for the City of San Antonio Employees Health Benefit Program dated May 1, 1995. Provisions and benefits specified in the Master Contract Document shall not be reduced during the life of this Agreement; however, the City reserves the right to change carriers or plan administrators at its discretion. While the City is prohibited from reducing the provisions and benefits specified in the Master Contract Document during the life of this Agreement, a determination of what medical service is medically

necessary for a particular patient, or that a particular charge is in excess of the reasonable and customary charge for that medical service, will not be construed as a reduction in benefits, provided that the determination is made in accordance with the procedure and criteria described in the Master Contract Document. Fire Fighters who retired on or after October 1, 1989 through the 30th day after the date of City Council approval of this Agreement, and who became eligible for retiree medical benefits under the terms of the prior collective bargaining Agreement between the City and the Union shall continue to receive retiree medical benefits in accordance with the prior agreement.

- B. The City has established a trust fund for pre-funded retiree health benefits, and is willing to increase its contribution levels with the purpose of establishing an actuarially sound retiree health benefit fund, evaluated over thirty years. The parties agree in principle that once an actuarially sound fund is established by current contribution levels, the responsibility for future contributions (made necessary by changes in circumstances, the economy, and the medical care system) is jointly shared by the parties, and shall be quantified and allocated by negotiation in future agreements as necessary. During this Agreement, the City will increase its current monthly contributions by \$78.00 per employee beginning January 1, 1996 and then by an additional \$39.00 per employee for Fiscal Year 1997-98, the City will have an actuarial study completed on the fund. The study shall be conducted by Towers Perrin Company, if that firm is still being utilized for actuarial services by the City and the Pension Fund. If the firm is not being utilized (or if the responsible personnel currently handling those matters are not available with that firm) the City may select any other recognized actuarial firm with experience in handling self-funded municipal retiree health benefit programs. The study shall evaluate the amount of month contributions necessary to provide benefits under the fund for a minimum of thirty (30) years. The City shall provide such accurate and complete information as the actuary shall require. The assumptions utilized shall be determined by the actuary, provided that any material change in the assumptions shall be preceded by notice to the City and the Union and an opportunity for input or conferences prior to completion of the study. The cost of the study shall be borne 1/2 by the City, 1/4 by the Union and 1/4 by the San Antonio Police Officer's Association. The Union may request additional studies, revised assumptions, or developed scenarios as it may deem necessary from the same firm, by paying for such additional services. In the event that the study shows a higher contribution to be necessary than provided by the terms of this paragraph, the City will increase its contribution during the following budget year to the contribution amount shown to be necessary (based on actuarial computation of the normal cost for current employees, together with the additional amounts necessary to amortize the unfunded contingent liability over a 30 year period), not to exceed however 9.6% of regular salary and wages.

- C. The City and the Union agree that a study process needs to be established in order to evaluate and plan for the design, drafting, administration, and funding of future employee benefits. Each party is willing to participate in that process in connection with future collective bargaining sessions.
- D. Spouses and retired Fire Fighters shall be eligible to receive the benefits as set forth in the Master Contract Document until eligible for Medicare. Spouses of retired Fire Fighters shall pay a portion of the annual health plan to retain coverage at a rate based on the tenure of the Fire Fighter to whom the spouse was married. Beginning with a Fire Fighter who served 20 years or less, the spousal rate will be 30% of the health plan premium (the COBRA formula premium as enumerated in Chapter 2 of the Master Contract Document). From 21 years to 30 years of tenure, for each year of tenure above 20, the spousal rate will decrease by 3% of the health plan premium until it is 0% for a spouse of a Fire Fighter with 30 years of tenure. Once the retired Fire Fighter becomes eligible for Medicare, the spousal rate will become 0% of the annual health plan premium.
- E. Spouses of deceased Fire Fighters shall be entitled to benefits provided for spouses of retired Fire Fighters, in the event that the deceased Fire Fighter died in the line of duty, or was eligible for retirement at the time of death. Spouses of Fire Fighters not eligible for retirement or acting in the line of duty after the time of death shall be entitled to continue coverage by paying the applicable COBRA formula premium (as enumerated in Chapter 2 of the Master Contract Document), until death or remarriage.
- F. Upon retirement, the Fire Fighter may elect to cover any other eligible dependents (other than spouse) in accordance with the Master Contract Document. The retiree shall pay 100% of the health plan premium (the COBRA formula premium as enumerated in Chapter 2 of the Master Contract Document) for each other eligible dependent.

Section 3. Active and retired Fire Fighters covered under this Agreement shall be granted the option of entering into or exiting from the flexible benefits program as provided for by the City to substitute for the basic program as outlined in Section 1 and 2 above. Said option must be exercised by the active or retired Fire Fighter during the City's re-enrollment period between the dates of October 1 and December 31 of each calendar year.

Section 4. Medical benefits provided for herein as to retirees and their spouses shall be supplemental to Medicare/Medicaid benefits. Once the retiree or spouse is individually eligible for Medicare, each such person is required to apply for, purchase, and maintain Medicare benefits. Upon the death of a retired Fire Fighter who became a Fire Fighter on or after October 1, 1988, the plan shall pay the applicable Part B Medicare premium for a surviving spouse until death or remarriage. The Plan Administrator may

approve any alternate health care coverage provided by the spouse of a retired or deceased Fire Fighter, in lieu of Medicare coverage, to comply with this requirement. The health plan will serve as supplemental coverage, benefits or coverage levels not otherwise provided by Medicare, to the extent permitted by federal law.

Section 5. This Agreement, and the Master Contract Document for Health Benefits adopted herein, shall control the available health benefits during the term of this Agreement, for active Fire Fighters. The supplemental insurance coverage provisions for retired Fire Fighters and spouses shall control available health benefits during the term of this Agreement for retired Fire Fighters and spouses.

Section 6. Health care benefits for active or retired Fire Fighters shall not be terminated, altered, modified or reduced except by amendments or successors to this Agreement.

Section 7. It is understood and agreed that the provisions of this Agreement and the Master Contract Document for Health Benefits have been drafted in substantial and material reliance upon existing provisions of federal and state law concerning employee health benefits. Any change in federal or state law or regulations which changes the obligations of either party, the applicability or extent of Medicare benefits, or materially alters the assumptions underlying the actuarial analysis relied upon in negotiations shall entitle the City or the Union to reopen negotiations concerning health benefits.

Section 8. Other Benefits.

Beginning on the effective date of this Agreement, the City will pay \$97.50 per month each employee with dependent(s) and \$65.00 per month for each employee without dependent(s) for dental, optical and prepaid legal benefits plan or plans selected by the Union. These amounts paid by the City per employee shall be applicable will be adjusted as follows on the indicated dates:

Date	Employees with Dependents	Employees without Dependents
October 1, 1995	\$104.50	\$68.00
October 1, 1996	\$112.50	\$71.50
October 1, 1997	\$121.50	\$75.50

With respect to the prepaid legal benefits, it is understood that no employee may utilize the benefits for the purpose, in whole or in part, of implementing and/or initiating legal action against the City, any of its agents, officers, and/or assigns.

The City shall not be required to make more than three separate payments in any pay period. The Union shall only be entitled to change the benefit providers twice during any fiscal year.

ARTICLE XXVI.

MISCELLANEOUS

Section 1. Should a Fire Fighter be ordered to another station after reporting to his assigned or temporary assigned duty station, mileage will be paid to the next station after reporting to his assigned or temporary assigned duty station. Mileage will be paid to the next station at the existing City rate per mile, or a minimum of \$2.00, whichever is greater. In order to be reimbursed for mileage expenses, a Fire Fighter so affected must turn in to the Chief each quarter on October 1, January 1, April 1, and July 1, of each calendar year expense vouchers requesting reimbursement for mileage expenses during the preceding quarter. Failure of an employee to timely file his voucher request shall result in the employee's waiver and relinquishment of any entitlement to said reimbursement of mileage expense.

Section 2. Employees suspended up to a maximum of six (6) working days may, at the employee's discretion, forfeit either accumulated vacation time or holiday leave equal to the suspension. The employee shall have ten (10) calendar days from his receipt of notice of the suspension to decide whether or not he wishes to forfeit accumulated leave or exercise his appeal rights pursuant to Local Government Code Chapter 143.

The provisions of this Article shall apply solely to suspensions which are agreed to by the employee, and no appeal to the Commission or to arbitration may be instituted on suspensions where the employee has forfeited accumulated vacation or holiday leave.

Section 3. Except when workload dictates or in the case of regular alarms or Departmental announcements, all stations shall be on selective call for twenty-four (24) hours per day.

Section 4. The City shall make a copy of this Agreement available at each station and a copy provided to each Fire Fighter.

Section 5. The Chief shall have the authority at any time to require a Fire Fighter to submit to psychological evaluation or treatment and/or medical evaluation, at the City's expense, to be performed by a qualified psychologist, psychiatrist, counselor, therapist, or medical doctor chosen by the City. It is understood and agreed that should an employee refuse to submit to a psychological and or medical examination, or refuse to provide the results of such examination, such refusal shall constitute a refusal to obey a command, for which discipline may be imposed. To the extent allowed by law, the City will

indemnify the Union from liability in connection with any disciplinary matters arising under this section.

Section 6. Effective with the execution of this Agreement, the Chief shall have the right to assign (which assignment shall not be unreasonably withheld), a Fire Fighter to light duty not to exceed one (1) calendar year from the date of the assignment based on the recommendation of a qualified physician. The Chief, in his sole discretion, may extend the duration of an employee's light-duty assignment.

Section 7. After an employee has two (2) uses of emergency leave in a calendar year, for each subsequent use of emergency leave, the Fire Chief shall have the right to deny eligibility for the next voluntary overtime opportunity which would otherwise have been made available to the employee.

ARTICLE XXVII

EMPLOYEE FITNESS

Section 1. Purpose.

A. The purpose of the physical fitness plan is to ensure that employees of the Department are physically capable of meeting all of the physical demands inherent in the job. It is the intent of the parties that the elements of the plan be directed to establishing such job-related physical fitness. The City and the Union recognize that each employee of the Department has individual physical characteristics which must be taken into account in assessing and applying the requirements of the plan.

Section 2. Fitness Requirements for New Employees.

- A. Effective with the first class to enter the Fire Academy after the approval of this Agreement, all new employees must agree to maintain a standard of fitness throughout their careers with the San Antonio Fire Department.
- B. The City and the Union will meet and come to an agreement on the standard of fitness to be maintained and the regulations, policies, penalties, medical considerations, etc. which will be necessary to implement this section.

Section 3. Fitness Program for Existing Employees.

A. The City and the Union shall meet and come to an agreement on a physical fitness program for existing employees which is not punitive in nature, but is instead aimed at promoting physical fitness among all employees of the Department. Any discipline which may be issued for non-compliance with the

physical fitness program or plan must be corrective in nature and must take into account the individual characteristics of the employee involved.

- B. The City agrees to promote compliance with the plan through education, incentives, interdepartmental counseling and other positive approaches.

Section 4. Nothing in this article or agreement shall require the City or the Union to violate the statutory provisions of the Americans with Disabilities Act.

ARTICLE XXVIII.

DRUGS AND ALCOHOL

Section 1. General.

- A. It is agreed that efficiency and safety in the work place is necessary and required in order to carry out the mission of the Fire Department.
- B. Therefore, it is understood that the use of alcohol, drugs, or other controlled substances by members of the bargaining unit without proper prescription or other authorization while on duty or in the work place is detrimental to the operation of the Department and is clearly prohibited by this Agreement and the rules and regulations of the Fire Department.
- C. It is further agreed that the parties will work toward development of a program of awareness and education of the danger and effects of drug and alcohol abuse. The Union further agrees to support and work with the City in its endeavors in implementation of a drug and alcohol rehabilitation program, as well as encouraging the participation of bargaining unit members who could be aided by such program.

Section 2. Investigation (Testing).

- A. The Union acknowledges and recognizes the right of the City to investigate possible alcohol or drug abuse by bargaining unit members which impairs job performance and to require employees to submit to various specified, approved and recognized medical procedures, provided reasonable suspicion exists, in accordance with proper procedure and applicable law, as well as the terms of this Agreement. In this regard, it is understood that the City shall adequately train its supervisory personnel who have authority to investigate the reasonable suspicion standard in detecting symptoms and effects of alcohol and/or controlled substance abuse. This Article in no way establishes or permits random testing of any employee, or testing in violation of any employee's constitutional, statutory, or other legal rights, including right provided by this Agreement.

B. In addition to reasonable suspicion testing as provided for above, the parties acknowledge the right of the City to require employees who receive special assignments to be tested. As used herein, special assignments shall include assignments to Haz-Mat, Paramedic, and/or Arson units where the assignment requires (1) the carrying of a firearm; (2) contact with or access to extremely dangerous materials; and (3) the administration of controlled substances. Testing must be approved pursuant to recognized medical procedures in accordance with applicable as well as the terms of this Agreement. Employees applying for such positions must be informed at the outset that such testing will be required prior to promotion/assignment to the position sought. In no event will employees be tested under this subsection as a result of involuntary assignment to an affected position, unless said assignment is the result of a promotion. Employees subject to tests under this subsection will be given a minimum of five (5) days notice of the actual test, and shall take the test, and the City must administer the same, in a manner which assures the employee's privacy to the greatest extent possible consistent with the City's need to preserve the integrity of the test procedures and results.

C. Any employee who is tested under the provisions of this Article and whose initial test shows a positive result, such results shall be confirmed by a follow-up, more extensive test (i.e., the Gas Chromatography - Mass Spectrophotometry [GC-MS] test). No disciplinary action may be taken, nor will the City be notified of the results, unless the initial, positive result is confirmed by a second positive finding using the GC-MS test procedure. A positive result on the second test does not imply that disciplinary action will automatically be taken, but only that an employee may then be subject to disciplinary or other appropriate action. A portion of the original sample must be retained for a period of one (1) year for confirmation at a later date, if requested by the employee. Any additional confirmation tests requested by the employee on the original sample must be paid for by the employee.

Section 3. Non-Relinquishment of Rights.

While it is understood that the Union is unequivocally opposed to the use of alcohol or drugs in the work place as well as the abuse of such substances under any conditions and further agrees to cooperate toward the prevention of such abuse and strongly supports the prohibition of the use of drugs or alcohol in the work place and the proper enforcement of the Department's rules and regulations, the Union, as the bargaining agent of employees covered by this Agreement, in no way relinquishes its rights and obligations to fairly and properly represent any aggrieved member of the bargaining unit by reason of the application of this Article, including but not limited to what the Union may consider unwarranted or unreasonable investigations, search, or the imposition of discipline.

ARTICLE XXIX.

GRIEVANCE PROCEDURE

Section 1. Scope of Procedure.

The purpose of this Article is to provide a just, equitable, and expeditious method for resolving disputes between the City and the Union (or employees) concerning all aspects of the employment relationship between the City and bargaining unit employees, and concerning the bargaining relationship between the City and the Union. To that end, the parties hereby agree and stipulate as follows:

- A. All disputes concerning the interpretation and/or application of the terms of this Agreement shall be submitted, if at all, to the grievance/arbitration procedure as called for herein. Failure to initially pursue grievance/arbitration in these instances shall be the basis for a plea in abatement in response to any suit or claim filed with a court of law and/or administrative agency.
- B. Employee claims of violation of statutory or constitutional rights may be submitted to the grievance/arbitration procedure or may be pursued by means of judicial and/or administrative appeal; provided that once the employee has elected to file a lawsuit and/or administrative claim, all issues raised by the dispute or claim will be resolved in such lawsuit and/or administrative process, and no grievance may be filed concerning the same subject matter. It is recognized that claims falling under this subparagraph may be included with related claims of contract violations. In such circumstances, the City shall not be entitled to abatement of a suit involving the contract claims, related to the statutory or constitutional claims asserted, for failure to grieve such contract matters initially. If the employee elects to use the grievance/arbitration procedure to raise statutory or constitutional claims, such matters may not thereafter be appealed to court except as provided by this Article.
- C. Union claims of violation of statutory and/or constitutional rights as to it individually and/or in behalf of a "class" of its members shall be submitted, if at all, to the grievance/arbitration procedure called for herein. Upon the exhaustion of such remedy, such matter(s) may not thereafter be appealed to a court or agency except as provided for herein.
- D. Claims alleging violation of Article XI, Section 1, or state or federal laws prohibiting employment discrimination including discrimination for having initiated or filed a claim for workers' compensation benefits, as prohibited by Texas Labor Code Section 451.001, shall not be subject to the grievance/arbitration procedure.

- E. Disciplinary matters subject to the appeals procedure provided by Texas Local Government Code Chapter 143 shall not be subject to the grievance/arbitration procedure; provided that such matters, at the employee's election, will be subject to the Civil Service Commission or grievance/arbitration procedure under a just-cause standard, if Texas Local Government Code Section 143.057 is repealed or amended to eliminate the optional appeal of disciplinary matters to a Hearing Examiner. If the provisions of Chapter 143 are not repealed, and should the employee elect to proceed to the optional appeal of disciplinary matters to a Hearing Examiner, the examiner shall be one of the six (6) pre-selected, qualified neutrals as called for in Section IV(A) hereof. The powers, duties, and/or obligations of said arbitrator/hearing examiner shall likewise be as provided for in this Agreement and applicable provisions of the Texas Local Government Code, Chapter 143.

Section 2. Time Limits.

The parties shall adhere to the time limits set forth in this Article, unless such time limits are waived or extended by mutual agreement. In the event the employee or Union fails to meet the time limit at any step of the grievance procedure, the grievance shall be considered satisfied and no further action need be taken; provided, that where the grievance concerns a matter within the jurisdiction of the courts, the employee may file suit if the grievance is rejected due to failure to comply with a time limit set forth in this Article. Failure by the City to meet the time limits at any step shall be considered a denial of the grievance which will allow the Union or employee, at their option, to proceed to the next step. Time limits begin to run on the date of a party's actual receipt of an appeal or response. When either party provides an appeal or response by mail, its timeliness shall be judged by the postmark on the envelope. Where a deadline falls on a Saturday, Sunday, or legal holiday, the deadline will be extended to the next day which is not a Saturday, Sunday, or legal holiday.

Section 3. Steps of Grievance Procedure.

- A. Step 1. The Union or any employee covered by this Agreement having a matter which is felt to be a grievance shall submit the grievance in writing to the Union Grievance Committee and simultaneously (by end of next business day) with the Fire Chief. In order to be considered, a grievance raising contractual issues must be filed within thirty (30) calendar days of the grievant's actual or constructive knowledge of the event. In order to be considered, as grievance raising non-contractual issues must be filed within one hundred eighty (180) calendar days of the grievant's actual or constructive knowledge of the event. The grievance shall be submitted on a form to be provided by the City and must include (1) a brief statement of the grievance and the facts on which it is based; (2) the section of the collective bargaining agreement which has been violated; (3) the remedy or adjustment, if any, sought; (4) the employee's signature; and (5) where "maintenance of standards" is a basis for the grievance, the specific

standard(s) alluded to must be identified. As used herein, "maintenance of standards" includes all statutory or other non-contract provisions incorporated herein through the Maintenance of Standards Clause found at Article IX. The Union Grievance Committee shall have ten (10) calendar days from receipt thereof in which to act on the grievance; if the Union Grievance Committee decides in its sole discretion that no grievance is found to exist, no further action shall be required; provided, that if any employee grievance concerns matters appealable to court, e.g., statutory violations, the employee retains the option to file suit if his/her grievance is rejected at Step 1. If a grievance is found to exist for reasons stated by the employee or other reasons known to the Committee, the Committee shall process the grievance by passing it to Step 2. Any additional bases for the grievance added by the Committee will be forwarded with the original grievance.

- B. Step 2. If a grievance is believed to exist, the matter shall be submitted to the Fire Chief or his designated representative within ten (10) calendar days of the Step 1 ruling. The Fire Chief or his designee shall respond to the grievance and shall render a decision to the Union Grievance Committee, in writing, within fifteen (15) business days from receipt thereof.
- C. Step 3. If a grievance is not resolved at step 2, the Union Grievance Committee shall submit the grievance, in writing, to the City Manager or his designated representative within ten (10) calendar days from receipt of the decision at Step 2. The City Manager or his designated representative shall review the matter and shall render a decision in writing to the Union Grievance Committee within fifteen (15) business days.
- D. Step 4. If the grievance is not resolved at Step 3, the Union Grievance Committee shall have ten (10) calendar days from receipt of the City Manager's decision to submit the matter to arbitration. Arbitration will be invoked by delivering a letter to the City Manager.

Section 4.

- A. If a grievance is submitted to arbitration or an employee appeal to a Hearing Examiner is requested, within five (5) business days, the City and the Union shall select an arbitrator/Hearing Examiner by order of rotation the name of one of six (6) pre-selected, qualified neutrals. The panel of six (6) shall have been previously agreed upon by the parties. The arbitrator selected shall be notified promptly by the City of his appointment and, simultaneously therewith, the parties in agreement with the arbitrator shall select a date for a hearing of the grievance. If the arbitrator cannot begin the hearing within 90 calendar days after being notified, the parties shall select another arbitrator using the procedure prescribed by this subsection. If none of the arbitrators can begin the hearing within 90 calendar days of being notified, within five (5) business days,

the City shall request a list of seven (7) qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function. The request shall include that only arbitrators who can schedule a hearing within 90 calendar days after the first arbitrator selected from the standing panel received notice of selection be listed on the list of seven (7). After receiving the list, each party shall alternate striking a name from the list and the name remaining is the arbitrator. The hearing schedule requirement herein (i.e. 90 days) may be shortened or lengthened by mutual agreement.

Within thirty (30) calendar days of the execution of this Agreement, the panel of six (6) arbitrators shall be established by each party alternately striking names from a list of thirty (30) names; fifteen (15) names each being submitted for this list by the City and Union, respectively. The Union will strike the first name. The established panel of six (6) arbitrators shall expire at the end of the term of this contract.

In the event a vacancy occurs on the panel of six (6) arbitrators, the vacancy will be filled by mutual agreement of the parties. In the event mutual agreement is not reached, the remaining panel members shall be utilized until a second vacancy occurs. The two panel vacancies shall be filled by each party alternately striking names from a list of 20 names, 10 names each being submitted for this list by the City and the Union, respectively. The Union shall strike the first name.

B. At a date previously agreed upon, the arbitrator shall convene the hearing at a place mutually convenient to all parties. The arbitrator shall hear and take evidence of all issues presented as raised by timely-filed grievances. The hearing shall continue from day to day until all such evidence has been received and all parties have "rested". Transcripts and post-hearing briefs may be utilized at the discretion of the Arbitrator. If a transcript is utilized, a transcript by a duly-authorized court reporter will be taken of the hearing and shall be the only official transcript thereof. Both parties to the proceeding shall be entitled to representation of their own choosing, the expense of which must be borne by the respective party.

C. The arbitrator shall make a reasonable effort to issue his/her award within thirty (30) calendar days after the date the hearing ends or, if transcripts and/or post-hearing briefs are required, within thirty (30) calendar days of receipt of the transcript or receipt of the parties' post-hearing briefs, whichever occurs later.

Section 5. Witnesses and Expenses.

A. The following expenses shall be shared equally by the parties: arbitrator's fees and expenses and the cost of the hearing transcript. Each party will bear its own attorney's fees and costs; provided that:

1. Should the arbitrator find that grievance upon which he rules is specious, he may in fact award the "prevailing party" (singularly) "reasonable attorney's fees" as defined in section 2 below.
2. Should the matter proceed to court, the court shall have the discretionary authority to grant attorney's fees, including the costs of the arbitration proceedings (but not the grievance proceedings). A reasonable attorney's fee for the City shall be \$85.00 per hour, and for the employee, shall not exceed the actual rate agreed and charged, not to exceed \$100.00 per hour.

B. The City shall compensate all witnesses called by either party at their straight-time rate; provided, however:

1. The witness called is scheduled for duty when called to appear:
2. The individual's identity and a brief statement as to the relevancy of his expected testimony has been provided the City five (5) days in advance of the hearing.

Any witness called by the Union and/or the grievant who has not been identified and/or who is not scheduled for duty shall be due no compensation or administrative leave from the City.

C. Witnesses shall be scheduled by agreement between the parties so as not to unduly interrupt the mission of the Department. The arbitrator shall have the authority, based upon the summary statement of the witnesses, to determine whether or not the testimony of the witness is required or is merely duplicitous or cumulative, then the City shall have no obligation to pay for the witness' appearance

D. The grievant shall not be compensated for time spent at the hearing and/or in preparation thereof, nor shall he be entitled to administrative leave for any such time.

Section 6. Arbitrator's Authority--Contract Cases.

A. This section applies to all issues involving the application or interpretation of this Agreement; provided, that where the sole issue of contract interpretation

involves the Maintenance of Standards provision, and the underlying standard is a statute or constitutional provision, this section shall not apply.

- B. For issues subject to this section, the award of the arbitrator shall be final and binding upon the City, Union and employees. In making his/her award, the arbitrator shall be limited to interpreting and applying the provisions of this Agreement; he/she shall have no authority to add to, subtract from, or modify the terms of this Agreement as negotiated between the parties.
- C. The arbitrator shall have full power to take steps necessary to ensure a fair hearing for all concerned, which power shall include, but is not limited to: ordering a party to provide information in its possession or control which is reasonably necessary to the other party's prosecution of its case; ordering a party to make available to testify a person within its control; issuance of witness subpoenas; and taking reasonable steps to ensure that no undue delays in the proceedings occur, consistent with the right of all concerned to a full and fair hearing.
- D. The arbitrator shall have the authority to provide in his/her award for such relief as is necessary to make the prevailing party whole for all economic losses suffered as a result of a violation of the terms of this Agreement.

Section 7. Arbitrator's Authority--Non-Contract Cases.

- A. In all cases which present issues, e.g., statutory claims which do not involve interpretation or application of the terms of this Agreement, the procedures specified in this section shall apply; provided, that where a case raises both contract and non-contract claims, the arbitrator's award as to contract claims shall be final and binding on the City, Union, and the employee.
- B. In cases subject to this section, the parties will be entitled to engage in discovery as provided in the Texas Rules of Civil Procedure, and the arbitrator is authorized to issue subpoenas, to resolve disputes concerning the appropriateness of a party's discovery requests, and to enter such other orders as may be necessary to effectuate the discovery process. As soon as practicable after the arbitrator's appointment and agreement to serve, the arbitrator and the parties' representative shall hold a conference, by telephone or otherwise, to set a reasonable period for discovery and a hearing date. In no case shall the period for discovery exceed ninety (90) days, except by mutual agreement of the parties.
- C. The provision of Section 5(C) of this Article are equally applicable to Section 6 cases.

- D. For issues subject to this section, the award of the arbitrator (both as to facts and the law of the contract) shall be final and binding; provided, that either party may appeal such award to state district court pursuant to Texas Local Government Code Chapter 174 on the grounds that it is clearly contrary to the provisions of a statute or the Constitution (state or federal), or is not supported by substantial evidence as indicated in the record made before the arbitrator. Any such appeal must be filed within thirty (30) days of the date of arbitrator's award.
- E. The arbitrator shall have the authority to provide in his/her award for such relief as a court with jurisdiction over such matter would be entitled to award, including injunctive and equitable relief, compensatory and exemplary damages.

ARTICLE XXX.

EXHAUSTION OF REMEDIES

Section 1. Exhaustion.

The City, the Union, and the Fire Fighters covered herein, shall be required to exhaust all available remedies through grievance and/or the Civil Service Commission prior to proceeding to a court of law, state or federal administrative agency, or other regulatory body, except as provided in Article XXIX. Failure to do so will act as a plea in abatement to any such court, administrative body, and/or regulatory agency proceeding until the exhaustion of remedies provided for in this Agreement have been completed to finality.

Section 2. If, at any time after a decision and/or award of the Civil Service Commission and/or an arbitrator, any affected party contests or challenges the decision or award in any other legal proceeding, the following shall apply:

- A. The decision and award of the arbitrator and/or the Commission must be upheld, unless the contesting party can establish the award was not supported in whole or in part by substantial evidence and/or that the award of the arbitrator and/or the Commission was capricious.
- B. As a condition precedent to the filing of any subsequent action challenging the award of the arbitrator and/or the Commission, the affected party (as used here, "party" shall mean the Union and/or the City) must file a cost bond in the minimum amount of the sum of the arbitrator's fees and expenses and the fees of the court reporter who took the transcript of the arbitration proceeding.

Section 3. Should any party be a part to any action by any other party contesting and/or challenging the award of the arbitrator and/or the Commission, the party may, pursuant to the terms of this Agreement, request the court or administrative body to which

the action has been addressed to reimburse it/them for all costs of court, including but not limited to reasonable attorneys fees, for having to defend said action. This remedy shall be in addition to any other remedy to which the party may be entitled, including but not limited to those as specified above and/or elsewhere in this Agreement. Should either party, after having pursued grievance/arbitration or Civil Service Commission proceedings, sue in a court of law, then that court has the authority to grant as a portion of its award all costs including attorney's fees, including but not limited to the attorney's fees expended and/or generated as a result of the arbitration proceedings (but not the grievance proceedings). It is agreed that as used herein the term "reasonable attorney's fees", shall be in accordance with Article XXIX, Section 5(A)(2).

ARTICLE XXXI.

PROMOTIONS

Section 1. Definitions.

A. Seniority - For purposes of this Article, each Fire Fighter shall be given one point added to only the passing score on any written promotional examination for each year as a classified Fire Fighter in the San Antonio Fire Department. In no event shall the number of such seniority points exceed ten (10). "Classified Fire Fighter" is meant to include service as a probationary Fire Fighter. Seniority is defined as all years of service, whether interrupted or uninterrupted, on the San Antonio Fire Department, and not merely the 1st continuous period of service.

B. Eligibility -

1. Fire promotional examinations shall be open to all Fire Fighters who have held a classified position with the San Antonio Fire Department for two (2) continuous years or more, immediately below that rank for which the examination is to be held. (This period shall consist of time spent by the Fire Fighter in actual service with the Department. Any absences in excess of thirty (30) consecutive days will cause the Fire Fighter to be required to remain in that position and rank for a period of time equal to the time of such absence. Time spent of leave for less than 30 days shall not apply. Example: A Fire Fighter is an Apparatus Operator as of 1/1/87. He is off work on a Line of Duty injury for thirty-one (31) days. He would be eligible for promotional examination to the position of Lieutenant as of 2/1/89. Fire Fighters who receive a retroactive promotion will be entitled to use the retroactive promotion date for purposes of determining eligibility to take future promotional examinations.)

2. The two (2) year continuous period required for eligibility to take the promotional examination for the rank of Fire Apparatus Operator shall commence with the date the Fire Fighter entered the Fire Academy.
 3. A Fire Fighter who has completed two (2) continuous years of service as Fire Apparatus Operator shall be eligible for promotion to the rank of Lieutenant. The two (2) continuous year period required for eligibility on promotion shall commence with the date he was promoted to Fire Apparatus Operator.
 4. A Fire Fighter who has completed two (2) continuous years service as a Fire Lieutenant shall be eligible for promotion to the rank of Captain. The two (2) year period required for eligibility on promotion shall commence with the date he was promoted to Fire Lieutenant.
 5. A Fire Fighter who has completed two (2) continuous years service as a Fire Captain shall be eligible for promotion to the rank of District Chief. The two (2) year continuous period required for eligibility for promotion shall commence with the date he was promoted to Fire Captain.
 6. In the event the scheduling of a promotional examination is prior to the ninetieth (90th) day of the vacancy, any Fire Fighter that would become eligible for such exam if it was given on the ninetieth (90th) day would be allowed to take such exam. For the purposes of calculating the ninetieth (90th) day, day one (1) begins from the first day of vacancy. Such Fire Fighter will also need to have met the criteria for eligibility for such exam as if it were given on the ninetieth (90th) day.
- C. **Seniority in Rank** - Time Within a Classified Fire Fighter Rank. The officer with the most time in a classified rank shall be considered the senior. Officers promoted on the same day shall be promoted based on their placement on the eligibility list. Seniority in rank for newly-hired Fire Fighters shall be determined by their ranking on their Probationary Fire Fighter eligibility list and effective with their appointment to probationary Fire Fighter.

Section 2. Study Materials Committee.

On November 1 of each year, the Chief shall establish a committee(s) for the selection of study materials for the written promotional examinations for each rank. Such materials which are selected shall be reviewed by the Chief who shall make the final selection subject to approval by the Civil Service Commission. A listing of all potential

materials from which promotional examination questions may be taken shall be posted annually each-January for examinations to be administered within the one-year period beginning the following April. Such material may not be used unless available from publishing companies at the time of the posting of the study materials list.

Section 3. Promotion to Fire Apparatus Operator, Lieutenant, and Captain.

Vacancies in the ranks of Fire Apparatus Operator, Lieutenant, and Captain shall be filled by competitive written examination in accordance with Chapter 143 Local Government Code and the rules established by the Fire Fighter and Police Officer Civil Service Commission not inconsistent herewith; however, a passing score of 70 shall be considered minimum for eligibility for promotion.

Section 4. Promotion to District Chief.

Persons having held the rank of Captain for a period of two (2) continuous years shall be eligible for promotion to the rank of District Chief. In the event all those Captains fail the written portion of the promotion examination which follows, persons holding the rank of Lieutenant for a minimum of five (5) continuous years and all Captains regardless of time-in-rank may be eligible for examination for promotion to District Chief. The promotional examination for the rank of District Chief shall consist of two parts as follows:

- A. **Written Examination** - Shall consist of questions relating to the duties of the classification of the position to be filled. All notice of written examinations and publishing of study material shall be in accordance with Chapter 143 Local Government Code and the rules established by the Fire Fighter and Police Officer Civil Service Commission. A score of 70% on the written examination shall be considered a passing score. In the event that written examination scores are the same, the ranking of those scores shall be done on the basis of rules established by the Fire and Police Civil Service Commission. All test participants with passing grades, up to a maximum of the top 20 (twenty), shall be allowed to continue on to the next phase of the examination process, the Assessment Center Board.
- B. **Assessment Center Board** - Shall consist of three members as follows:
 1. Two persons from outside the San Antonio Fire Department who currently hold an administrative position in a Fire Department or fire-related agency in a City of 50,000 or more population or from a state or Federal agency. One such person shall be selected by the City; one shall be selected by the Union.
 2. One person from outside the San Antonio Fire Department who has held an administrative position in the field of personnel management, city management, fire science, or a related field, for a minimum of

five (5) years, to be selected by mutual agreement of the City and the Union.

3. The City and the Union shall agree on guidelines to be presented to the Assessment Center Board for use in their examination.
4. A minimum score of 70% on the composite factors evaluated by the Board shall be required to pass the Assessment Center Board.
5. Failure of an applicant to obtain a passing score on the Assessment Center shall disqualify the applicant from further consideration for one year from the date the written examination was administered, unless the list is exhausted, in which event persons on the list shall be eligible for re-examination. (The result of the Assessment Center shall be binding for one year and shall not be appealable to the Civil Service Commission or to arbitration through the grievance procedure.)

C. Eligibility List - Within seventy-two (72) hours of the completion of the Assessment Center Process, excluding weekends and holidays, an eligibility list shall be prepared and posted with the respective ranking of all applicants based on the following weights:

1.	Written Exam Score	50%
2.	Assessment Center Score	50%
		100%

Section 5. Promotional Probation.

For promotional ranks of Fire Apparatus Operator, Lieutenant, Captain, and District Chiefs there shall be a probationary period of six (6) months. During the promotional probationary period, an employee may be demoted by the Chief to the rank from which promoted, and the decision to demote shall not be subject to disciplinary appeal. Upon demotion while holding a probationary promotion, an employee shall resume the competitive rank from which appointed and the salary shall be in accordance with said competitive rank, with service time credited as continuous time in that competitive rank and with all salary increases to which the employee would have been automatically entitled had the employee continuously remained in said competitive rank. If the probationary period is successfully completed, the probationary period shall count as time in grade in the new rank.

Section 6. Chief's Review of Promotability.

Notwithstanding the provisions of this Agreement, the parties understand and agree that in considering a Fire Fighter for promotion the Chief shall have all rights and privileges as contained in Chapter 143 Local Government Code regarding promotability.

Section 7. Assessment Center Promotional Dispute Resolution Procedure.

- A. The purpose of this Section of this Article is to provide for the exclusive remedy available to officers who question or challenge the Assessment Center process.
- B. Any officer who disputes or challenges the Assessment Center process as contained in this Article as it applies to him shall file a grievance within ten (10) calendar days of the posting of the results of the examination process with the Director of Personnel of the City, which grievance must state in particular and with specifics the officer's objection to said process and/or results. Copies of all grievances so filed shall be provided to the Union.
- C. Within fifteen (15) calendar days of the date of the posting of the results of the Assessment Center process, the City and the Union shall meet to review all such grievances timely filed and shall each designate a representative to act in their behalf. These two representatives shall select and agree upon a third, mutually-satisfactory individual who shall act as an independent arbitrator. Failure of the parties' representatives to agree on this third "neutral" shall result in the parties selecting an arbitrator from the list of six (6) arbitrators previously agreed to in Section 4 of Article XXIX. The arbitrator or "neutral" so selected shall be notified promptly of his appointment and, simultaneously therewith, the parties in agreement with the arbitrator or "neutral" shall select a date for a hearing of all the grievances so submitted, which date shall be within thirty (30) calendar days.
- D. At the date previously agreed upon, the independent arbitrator or "neutral" shall convene the hearing at a place mutually convenient to all parties. The arbitrator or "neutral" so selected shall hear and take evidence on all of the grievances that were timely filed by officers as previously described. The hearing shall continue from day to day until all such evidence has been received. A transcript by a duly authorized court reporter will be taken of the hearing and shall be the only official transcript thereof. All parties to the proceedings, including individual officers, shall be entitled to representation of their own choosing, the expense of which must be borne by the respective party.
- E. The arbitrator or "neutral" so selected shall submit a written opinion on each grievance presented and/or heard by him without the benefit of the submission of briefs by the City, the Union, and/or the affected officer. The decision of the arbitrator or "neutral" shall be brief and concise and shall recite:

1. The name of the grievant;
2. The issue presented;
3. The decision and award of the arbitrator or neutral.

Unless otherwise mutually agreed by the Union and the City, the decision of the arbitrator or "neutral" shall be rendered within fifteen (15) calendar days of the date the hearing was closed. The decision of the arbitrator shall be final and binding on the City, the Union, and the affected Fire Fighter/grievant.

F. The fees and expenses of the arbitrator or "neutral" and of the official court reporter shall be borne equally by the Union and the City.

G. Should at any time after the decision and award of the arbitrator or "neutral" any affected Fire Fighter/grievant contest or challenge the award of the arbitrator in any other legal proceeding, the following shall apply:

1. The decision and award of the arbitrator or "neutral" must be upheld, unless the Fire Fighter/grievant can establish by clear and convincing evidence said award was not supported in whole or in part by substantial evidence and/or that the award of the arbitrator or "neutral" was capricious.
2. As a condition precedent to the filing of any subsequent action challenging the award of the arbitrator or "neutral", the affected Fire Fighter/grievant must file a cost bond in the minimum amount of the sum of the arbitrator's fees and expenses and the fees of the court reporter who took the transcript of the arbitration proceeding.

H. Should the Union and/or the City be a party to any action by a Fire Fighter/grievant contesting and/or challenging the award of the arbitrator or "neutral", the City and/or the Union may, pursuant to the terms of this Agreement, request the court or administrative body to which the action has been addressed to reimburse it/them for all costs of court, including but not limited to attorneys fees, for having to defend said action. This remedy shall be in addition to any other remedy to which the City and/or the Union may be entitled, including but not limited to those as specified above and/or elsewhere in this Agreement.

Section 8. Appointment to Assistant Chief and Deputy Chief.

The Chief shall have the right to appoint six (6) Assistant Chiefs which rank immediately above the rank of District Chief and rank below the Deputy Chief in the chain of command. The Chief shall have the right to appoint (2) Deputy Chiefs which rank

immediately above the rank of Assistant Chief and rank below the Chief in the chain of command. All officers currently holding the rank of Assistant Chief shall be grandfathered into their positions and shall maintain all rights and privileges currently enjoyed by virtue of holding that rank. No additional positions within the rank of Assistant Chief shall be created other than by this Article. Hereinafter, no position in the rank of Assistant or Deputy Chief shall be filled other than by appointment. As vacancies occur in the rank of Assistant Chief, the Chief shall have the right to appoint to the position in accordance with this Section. Appointments to the rank of Assistant or Deputy Chief shall be by the Chief at his sole discretion, provided that the employee promoted is a classified, sworn member of the San Antonio Fire Department and occupies a rank of either Assistant Chief, District Chief, or Captain.

Persons appointed to this rank shall be subject to overall City policies and regulations and while appointed to this rank shall not be subject to the provisions of Chapter 143 Local Government Code or any of the provisions of this Agreement, unless specifically so provided in this Article.

Any person appointed to the rank of Assistant Chief or Deputy Chief may be suspended or demoted to the rank from which he was promoted at the sole discretion of the Chief without appeal to the Commission and/or Arbitration. Any person appointed to either rank may, further, voluntarily return to the rank from which he was promoted at any time. Upon demotion or voluntary return to the previously-held rank pursuant hereto, the employee shall receive thereafter the full benefits provided in Chapter 143 Local Government Code and this Agreement as if he had served in either rank on a continuous basis throughout his tenure as either Assistant or Deputy Chief. A person appointed to the rank of Assistant or Deputy Chief may be terminated for cause, provided that such termination shall be subject to appeal in the same manner as applicable to all classified, uniformed employees in the Department.

Except for the positions of Assistant or Deputy Chief, nothing in this Article shall be construed to require the City to create the rank or establish and fill the maximum number of positions authorized herein. Further, nothing in this Article shall be construed to limit any existing right of the City to create ranks and establish positions in accordance with State law and the City Charter.

Assistant or Deputy Chiefs appointed by the Chief pursuant to this Article may receive administrative leave time for work performed in excess of their regularly-scheduled duties. Said leave time may be granted at the discretion of the Chief, subject to scheduling and manpower contingencies that may arise. Said discretionary leave time shall, in no event, exceed that amount of time that said Assistant or Deputy Chiefs have accumulated in excess of their regularly-scheduled work week.

The pay provisions herein described for the classification of Assistant Chief are applicable to only those officers who hold the Assistant Chief rank as of October 1, 1988. Fire Fighters appointed to the Assistant Chief position by the Chief as provided for in

Article XXXI, Section 8, of this Agreement, shall be compensated at an annual salary of not less than fifteen percent (15%) above the rate of a 30-year District Chief's regular rate of pay. The Fire Fighters appointed to the Deputy Chief position by the Chief shall be compensated at an annual salary of not less than fifteen percent (15%) above the rate of a 30-year Assistant Chief's regular rate of pay. The Fire Fighters so assigned shall be entitled to all benefits as contained in the following specified Articles of this Agreement: Articles I; II; IV; V; VII; X; XIII, Section 3; XVII; XVIII; XIX; XX; XXIII; XXV; XXVI, Section 5; XXVII; XXVIII; XXXI, Section 8; XXXIV; XXXV; XXXVI; and XXXVII.

ARTICLE XXXII.

FIRE FIGHTER TRAINEES AND FIRE FIGHTER PROBATION

Section 1. Persons enrolled in the initial Fire Academy shall hold the position of Fire Fighter Trainee. As such, he shall be considered a civilian employee and is not a member of the bargaining unit covered by this Agreement nor shall he be subject to any of the terms of this Agreement or of Chapter 143 Local Government Code.

Section 2. Upon completion of the Academy, an employee shall be certified as a Fire Fighter and shall hold the rank of Fire Fighter (Probationary). The probationary period shall be extended by a like period if an employee covered by the provisions of this Article is on leave for a period of thirty (30) consecutive calendar days or more. During this probationary period, excluding time spent as a Fire Fighter Trainee as described in Section 1 of this Article, the employee shall be subject to all provisions of this Agreement and of Chapter 143 Local Government Code with the exception that the Chief, in his sole discretion, shall have the authority to suspend or discharge said employee without appeal through the grievance procedure or to the Fire Fighter and Police Officer Civil Service Commission.

Section 3. The provisions of this Article shall be exempt from the Maintenance of Standards Article IX of this Agreement.

ARTICLE XXXIII.

LIMITATIONS ON ACTS

Except as provided in this section of this Article, the Chief and City are precluded from the introduction of evidence or otherwise complaining of any acts or occurrences earlier than the 180th day immediately preceding the date on which the Chief suspends the employee or as specified in Chapter 143.052 of the Local Government Code. Only upon written notice in the original written statement of the Chief may any act or occurrence be admissible in a disciplinary hearing in accordance with this section. Solely to aid the Commission or arbitrator in the assessment of appropriate discipline and not to prove a

charge of a violation of Civil Service Rules or for any other purpose, the Chief and the City may introduce evidence of prior disciplinary actions which have not been set aside on appeal as follows:

- A. Where the Chief's original written charges include alleged violations of Civil Service Rules and/or Department Rules and Regulations, Special Directives, and/or Administrative Orders, constituting acts of violence (exertion of physical force so as to injure or abuse), the Chief and the City may introduce prior discipline on such other violations found to have been committed within five (5) years immediately preceding the date of the act(s) charged as contained in said written charges;
- B. Where the Chief's original written charges include alleged violations of Civil Services Rules and/or Department Rules and Regulations, Special Directives, and/or Administrative Orders, concerning drug or alcohol abuse, any prior discipline on such violations found to have been committed within ten (10) years immediately preceding the date of said written charges;
- C. Where the Chief's original written charges allege acts of incompetence, all prior discipline for acts of incompetence may be introduced by the Chief or the City so long as adequate records are maintained; and
- D. Where the Chief's original written charges allege a violation of any other Civil Service Rules and/or Department Rules and Regulations, Special Directives, and/or Administrative Orders. The Chief and the City may introduce prior discipline for a violation(s) of the same rule within two (2) years immediately preceding the date of the charged act, so long as adequate records are maintained.

ARTICLE XXXIV.

AGREEMENT BINDING ON SUCCESSORS AND ASSIGNS ON BOTH PARTIES, REGARDLESS OF CHANGES IN MANAGEMENT, CONSOLIDATION, MERGER, TRANSFER, ANNEXATION, AND LOCATION

This Agreement shall be binding upon the successors and assigns of the parties thereto, and no provisions, terms, or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by the consolidation, merger, annexation, transfer, or assignment of either party hereto or by a change geographically or otherwise in the location or place of business of either party hereto.

ARTICLE XXXV.

SAVINGS CLAUSE

Should any provision of this Agreement be found to be inoperative, void or invalid by a court of competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement, it being the intention of the parties that no portion of this Agreement or provision herein shall become inoperative or fail by reason of the invalidity of any other portion of provision.

ARTICLE XXXVI.

DECLARATION OF THE FULL AND FINAL SCOPE OF AGREEMENT

Section 1. The parties agree that each has had full and unrestricted right and opportunity to make, advance, and discuss all matters properly within the province of collective bargaining. This Agreement constitutes the full and complete Agreement of the parties and there are no others, oral or written, except as specified in this Agreement. Each party for the term of this Agreement specifically waives the right to demand changes herein, whether or not the subjects were known to the parties at the time of execution hereof as proper subjects for collective bargaining; however, it is understood and agreed that the contract may be amended by mutual consent of the parties to this Agreement.

Section 2. Additionally, in the event that any provisions of this Agreement conflicts or is inconsistent with any provision of Chapter 143 Local Government Code, this Agreement shall prevail, notwithstanding any such provision of the Civil Service Statutes.

Section 3. The parties understand and agree that where they have agreed to a re-opener upon the occurrence of specific events and/or with the passage of a specified period of time, such re-opener provisions are exempt from the provisions of Section 1 above.

ARTICLE XXXVII.

DURATION OF AGREEMENT

Section 1. Except as specifically provided herein, this Agreement shall be effective upon approval and signing by both parties. It shall remain in full force and effect until the 30th day of September, 1998 and shall continue in effect from year to year until replaced by a successor agreement or until terminated by mutual agreement. In no event shall this Agreement continue in effect after September 30, 2008.

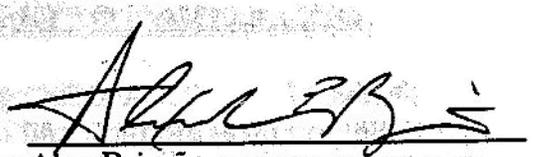
Section 2. Whenever wages, rates of pay, or any other matter requiring appropriation of money by any governing body are included as a matter for collective bargaining pursuant to this Act, it shall not be the obligation of the Union to serve written notice of request for such collective bargaining on the public employer at least 120 days before the conclusion of the current fiscal operating budget, because this Section serves as such notice.

In witness whereof, the City, through its Chief Negotiator acting with full authority and in his representative capacity, and the Union's Chief Negotiator acting with full authority and in his representative capacity hereto execute this Agreement on the dates as indicated below:

FOR THE CITY OF SAN ANTONIO:



William Thornton
Mayor



Alex Briseño
City Manager

Date: 11/14/95

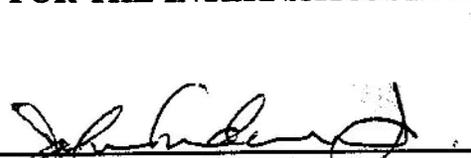
Date: 11/14/95



Lowell F. Denton
Attorney, Chief Negotiator

Date: 11/14/95

FOR THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS and LOCAL 624:



John Anderson, Jr.
Chief Negotiator



Morris E. Munoz
President, Local 624

Date: 11/14/95

Date: 11/14/95

FMS:lmc
1/23/86

CS21 AN ORDINANCE 62206

PROVIDING FOR THE INDEMNIFICATION OF CITY OFFICERS AND EMPLOYEES IN CONNECTION WITH LEGAL PROCEEDINGS ARISING FROM THE PERFORMANCE OF THEIR OFFICIAL DUTIES, INCLUDING THE COSTS OF LEGAL DEFENSE; PROVIDING A PROCEDURE FOR THE RETENTION OF COUNSEL WHERE NECESSARY, ESTABLISHING A PROCESS FOR CONTROLLING THE COURSE OF LITIGATION AND MINIMIZING THE COSTS THEREOF.

* * * * *

WHEREAS, the City Charter Section 151 states that "No officer or employee of the City shall be liable for damages for any act committed in the proper discharge of his duties"; and

WHEREAS, City of San Antonio officials and employees are subject to litigation and liability for actions taken in the proper discharge of officials duties concerned with governmental and propriety functions; and

WHEREAS, this City Council wishes to shield officials and employees from the continual concern over possible liability for money damages and the cost of engaging legal council to defend actions undertaken in the course of employment, where those actions and conduct do not violate clearly established statutory or constitutional rights of which a reasonable person would have known, and where their actions and conduct is in the furtherance of a City policy; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

The City of San Antonio hereby adopts the attached policy statement governing indemnification of employees and officers for damages payable by virtue of a final judgment or settlement of tort litigation and reimbursement for legal fees and costs.

PASSED AND APPROVED this 23rd day of January, 1986.

ATTEST 
CITY CLERK


MAYOR

86-04

APPROVED AS TO FORM: 
CITY ATTORNEY

PUBLIC OFFICIAL'S AND EMPLOYEE'S INDEMNIFICATION
FOR TORT LIABILITY AND LEGAL DEFENSE

I. Policy Statement

A. The City will indemnify its employees for legal defense fees, expenses and costs, and damages payable by virtue of a final judgment or settlement arising from conduct or actions of the employee while within the course and scope of his/her employment and which actions were taken or performed in an objective and subjective good faith effort to perform the employees' duties according to

(1) law

(2) the policies and regulations lawfully imposed by the City, and

(3) any lawful supervisory directives given to the employee, PROVIDED that:

(a) the terms of any settlement are subject to the approval of the City;

(b) any employee shall be entitled to retain their own counsel at their own expense.

B. The City will indemnify its employees for legal defense expenses and costs associated with defense of any criminal action filed against an officer or employee arising from conduct or actions of the employee while in the course and scope of his/her employment (but not for the alleged criminal aspect of the conduct) which actions were taken or performed in an objective and subjective good faith effort to perform the employee's duties according to:

(1) law;

(2) the policies and regulations lawfully imposed by the City;

(3) any lawful supervisory directives given to the employee.

The City shall not thereby incur any liability arising from criminal prosecution and conviction.

II. Responsibility

A. Representation - City

(1) The City has the right and duty to provide legal representation through either the City Attorney, or in its discretion through the selection of

CS26

outside legal counsel, to any individual (as defined) sued in connection with any claim for damages or other civil action arising out of the course of scope of employment, provided that such individual is entitled to indemnification as herein set forth.

- (2) The City shall approve or reject Counsel selected by the Defendant officer or employee in any criminal matter, but shall endeavor to approve the selection of the Defendant if the selection is reasonable.

B. Representation - Employee

- (1) Employees must comply in all respects with this policy in order to mature any rights to indemnity or defense expenses.
- (2) An employee may have his or her own counsel assist in the defense at the sole expense of the individual.
- (3) Employees shall cooperate fully with the City in preparation and presentation of the case, failure to do so shall waive such individual's right to representation and indemnity.

C. Indemnification - City

- (1) The City shall provide indemnification to an officer or employee found liable for the payment of any claim or damages, EXCLUDING PUNITIVE DAMAGES.
- (2) Whether the acts were done in good faith and within the course and scope of employment, shall be determined by the City, and such determination shall be final for the purposes of initial representation and indemnity; if, however, representation and indemnity have been denied by the City but upon a trial of the merits it is determined that the individual was acting in good faith and within the scope of employment, indemnification shall be granted and reasonable legal expenses incurred in the defense of the claim reimbursed.
- (3) The City shall not be liable for any settlement of any claim or suit effected without its consent.
- (4) The City reserves the right to assert any defense and make any settlement it deems expedient.

(5) For any suit or claim arising under the Texas Tort Claims Act, the indemnity provided shall be limited to the statutory limits applicable to the City provided in said act.

III. Definitions

- A. Individual - the term as used in this policy is defined as all elected and appointed officials, employees, and volunteers including Firemen and Policemen of the City of San Antonio.
- B. Indemnification - providing security against damages, and exemption from incurred liabilities.

IV. Procedures

- A. When any employee of the City is served with process in an action, he or she shall request representation. The request shall be forwarded by the employee's department head to the City Attorney and the Risk Manager, simultaneously, and no later than the second day after service is made. Forwarding of the request does not relieve the employee of any duty or effect of the proceeding, and no right to representation at the City's expense shall mature, nor shall any attorney-client relationship be established until the appropriate determination has been made and the employee is notified of such determination.
- B. With the advice of the City Attorney, Risk Management shall determine whether or not to initially grant indemnity under this policy and shall ascertain whether to permit outside counsel for the employee. The City Attorney shall advise the Risk Manager if a conflict or potential conflict exists. If a conflict exists (being such a juxtaposition of interests, claims, defenses, or issues between the City or its employees, which under known or probable facts, would cause an ethical violation in the event of dual representation by a single attorney), Risk Management shall authorize the use of outside counsel and will either (1) designate counsel for the employee, or (2) approve the choice of the employee, if any. Risk Management will promptly notify the employee and furnish directly to the designated or approved counsel a copy of the City's three-party attorney-client fee contract. The employee does not have to utilize an attorney designated by Risk Management, but in utilizing his or her own attorney assumes the obligation to pay all costs, fees and expenses in the litigation.

If only a potential conflict exists, the City Attorney will so advise Risk Management. The Risk Manager shall make a determination in writing for the City as to whether or not the City will waive the conflict and

0828
agree to accept any litigation risk resulting from dual representation of the employee and the City by the City Attorney's Office. The Risk Manager shall determine to either (1) allow the employee to choose between outside counsel and the City Attorney's Office or (b) to deny approval of outside counsel.

Where time does not allow the completion of the conflict resolution process set forth in the foregoing paragraph, the Risk Manager will authorize the employee to contact the designated counsel to timely file an answer or to meet other procedural deadlines. The City will not pay legal expenses for any attorney not designated or approved for such purpose, but nevertheless selected by the employee. Upon being notified of the Risk Manager's decision for the City on a potential conflict, the City Attorney shall notify the employee by written communication and reveal the potential conflicts in such a manner as to allow the employee a full opportunity to accept representation by the City Attorney or seek representation by outside counsel. If the City has determined not to pay the cost of outside counsel, the employee shall be so informed, but shall further be informed that they should nevertheless utilize outside counsel should they decide that their legal interest require it. Should the employee elect to utilize an attorney or their own selection, he or she assumes the obligation to pay all costs, fees and expenses of the litigation. The City will pay an amount not to exceed \$75 for the employee to consult with an attorney of his or her choice on the necessity or advisability of separate representation. If the employee elects to accept dual representation by the City Attorney, he or she fill sign and return for the file the original attorney-client disclosure letter signifying the client's understanding of the potential conflicts and his or her waiver thereof, and representation by the City Attorney will then begin.

- C. Where initial representation has been denied, no legally enforceable claim to indemnity or to defense expenses shall arise until after expiration of 45 days from the date of final judgement or final approval of settlement.